

UNITED STATES BANKRUPTCY COURT FOR  
THE DISTRICT OF NEW JERSEY

**Caption in compliance with D.N.J. LBR 9004-1**

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*Counsel to the Debtors  
and Debtors-in-Possession*

In re:

NEW ENGLAND MOTOR FREIGHT, INC., *et al.*,

Debtors.<sup>1</sup>

**FILED**  
JEANNE A. NAUGHTON, CLERK

**MAY 16 2019**

U.S. BANKRUPTCY COURT  
NEWARK, N.J.  
BY  DEPUTY

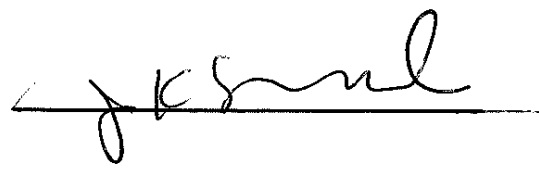
Chapter 11

Case No. 19-12809 (JKS)

(Jointly Administered)

**ORDER (A) AUTHORIZING AND APPROVING (1) THE SALE OF  
SUBSTANTIALLY ALL OF DEBTORS' EASTERN FREIGHT WAYS, INC. AND  
CARRIER INDUSTRIES, INC.'S ASSETS AND CERTAIN ASSETS OF NEW  
ENGLAND MOTOR FREIGHT, INC. FREE AND CLEAR OF ALL LIENS, CLAIMS,  
ENCUMBRANCES AND OTHER INTERESTS; AND (2) THE ASSUMPTION AND  
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED  
LEASES IN CONNECTION THEREWITH; AND (B) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through and including forty-two (42), is hereby **ORDERED**.

5/16/19 

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: New England Motor Freight, Inc. (7697); Eastern Freight Ways, Inc. (3461); NEMF World Transport, Inc. (2777); Apex Logistics, Inc. (5347); Jans Leasing Corp. (9009); Carrier Industries, Inc. (9223); Myar, LLC (4357); MyJon, LLC (7305); Hollywood Avenue Solar, LLC (2206); United Express Solar, LLC (1126); and NEMF Logistics, LLC (4666).

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Caption: Order (A) Authorizing and Approving (1) The Sale of Substantially all of Debtors' Eastern Freight Ways, Inc. and Carrier Industries, Inc.'s Assets and Certain Assets of New England Motor Freight, Inc. Free and Clear of all Liens, Claims, Encumbrances and Other Interests; and (2) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith; and (B) Granting Related Relief.

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Upon the motion (the "Motion"), of New England Motor Freight, Inc. ("NEMF") and its affiliated debtors, as debtors and debtors in possession (the "Debtors" or the "Sellers") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), pursuant to sections 105(a), 363, 365, and 503 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for (i) entry of an order (the "Bidding Procedures Order") (a) establishing bidding and auction procedures (as amended at D.I. No. 477, the "Bidding Procedures") related to the sale of Eastern Freight Ways, Inc.'s and Carrier Industries, Inc.'s assets as well as NEMF's right, title and interest in and to certain trucks, trailers and other rolling stock (the "Sale"); (b) scheduling an auction (the "Auction") and a hearing for such Sale; (c) establishing certain notice procedures for determining cure costs for executory contracts and unexpired leases to be assumed and assigned in connection with such Sale (the "Assumption and Assignment Procedures"); and (d) granting certain related relief; and (ii) entry of an order (this "Sale Order") (a) approving the Sale of Eastern Freight Ways, Inc.'s and Carrier Industries, Inc.'s assets and NEMF's right, title and interest in and to certain trucks, trailers and other rolling stock, free and clear of all Interests (as defined below); (b) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (c) granting certain related relief; after holding a hearing on April 8, 2019 (the "Bidding Procedures Hearing"), this Court entered the Bidding Procedures Order on April 8, 2019 [D.I. 427]; and the Bidding Procedures Order having authorized the Debtors to accept a stalking horse bid and enter into an asset purchase agreement with a stalking horse bidder; and New England

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Motor Freight, Inc., Eastern Freight Ways, Inc. and Carrier Industries, Inc., on the one hand and Estes Express Lines (the "Purchaser"), on the other, having entered into an Asset Purchase Agreement dated April 17, 2019 (as it may be amended, modified, or supplemented in accordance with the terms hereof and thereof the "Asset Purchase Agreement") (attached hereto as Exhibit A) with the Asset Purchase Agreement to serve as a stalking horse bid and the Purchaser to serve as a stalking horse bidder as authorized by the Bidding Procedures Order and Bidding Procedures; and the Asset Purchase Agreement providing for a break-up fee in favor of the Purchaser in the amount of \$450,000 (the "Break-Up Fee") and an expense reimbursement in favor of the Purchaser in the amount of \$75,000 (the "Expense Reimbursement"); and the Debtors, in compliance with the Bidding Procedures Order, having filed a Notice of (I) Stalking Horse Designation; (II) Filing of Stalking Horse APA with Bid Protections; and (III) Filing of Amended Bidding Procedures on April 18, 2019 [DI 477] providing notice that the Asset Purchase Agreement was to serve as a stalking horse bid under the Bidding Procedures, that the Purchaser was to serve as a stalking horse bidder under the Bidding Procedures, providing specific notice of the Break-Up Fee and the Expense Reimbursement, providing notice of proposed changes to the Bidding Procedures to account for the stalking horse bid and providing parties in interest with an opportunity to object to the Asset Purchase Agreement serving as a stalking horse bid for purposes of the Bidding Procedures, the Break-Up Fee and Expense Reimbursement and the proposed amendments to the Bidding Procedures; and no objection to the Asset Purchase Agreement serving as a stalking horse bid for purposes of the Bidding Procedures, the Break-Up Fee and Expense Reimbursement or the

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proposed amendments to the Bidding Procedures having been filed by the deadline for doing so, and, as provided for in the Bidding Procedures Order, upon no objections being filed, the Asset Purchase Agreement having been deemed a stalking horse bid for purpose of the Bidding Procedures, and the Break-Up Fee, Expense Reimbursement and the amendments to the Bidding Procedures having been approved; and the Bidding Procedures Order and the Bidding Procedures having established a deadline of May 9, 2019 for the submission of Qualified Bids<sup>2</sup> (the "Bid Deadline"); and no Qualified Bids, other than the Asset Purchase Agreement, having been submitted by the Bid Deadline; and the Debtors having filed a Notice of Cancellation of Auction and Selection of Stalking Horse Bidder on May 10, 2019 [DI No. 560] cancelling the auction scheduled for May 14, 2019 and designating the Purchaser or its designee (the "Purchaser Designee") as the Successful Bidder and the Asset Purchase Agreement as the Successful Bid and announcing that the Debtors will seek approval of the sale of the Acquired Assets to the Purchaser under the Asset Purchase Agreement at the Sale Hearing; and this Court having conducted a hearing on the Motion (the "Sale Hearing"); and all parties in interest having been heard, or having had the opportunity to be heard, regarding the Motion, the Asset Purchase Agreement, and this Sale Order; and this Court having reviewed and considered the Motion and all objections thereto, and the arguments of counsel made, and the evidence adduced, at the Bidding Procedures Hearing

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<sup>2</sup> Capitalized terms used, but not otherwise defined, herein shall have the meaning ascribed to such terms in the Asset Purchase Agreement, the Motion and/or Bankruptcy Code, as applicable.

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and the Sale Hearing; and upon the entire record of the Bidding Procedures Hearing and the Sale Hearing, and after due deliberation thereon, and good cause appearing therefor:

**THE COURT HEREBY FINDS THAT:<sup>4</sup>**

**Jurisdiction, Final Order and Statutory Predicates**

A. On February 11, 2019 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of New Jersey (the "Court").

B. This Court has core jurisdiction to hear and determine the Motion under 28 U.S.C. §§ 157(b) and 1334. Venue of the Chapter 11 Cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, and expressly directs entry of judgment as set forth herein.

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<sup>4</sup> The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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D. The statutory predicates for the relief sought in the Motion are sections 105(a), 363, 365 and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and the applicable Local Rules of the United States Bankruptcy Court for the District of New Jersey (the "Local Rules").

**Notice of the Sale, Auction and the Cure Costs**

E. Actual written notice (and publication notice) of the Sale Hearing, the Auction, the Motion, the Sale, and the assumption, assignment and/or transfer of the Assigned Contracts, and a reasonable opportunity to object or be heard with respect thereto and to the entry of this Sale Order has been afforded to all known interested Persons and entities entitled to receive such notice, including, but not limited to, the following parties: (i) counsel to the Committee; (ii) counsel to the Sellers; (iii) those entities or individuals included on the Debtors' list of 30 largest unsecured creditors on a consolidated basis; (iv) the United States Trustee for the District of New Jersey (the "United States Trustee"); (v) all entities (or counsel therefore) known to have asserted any lien, charge, claim or encumbrance on the Acquired Assets; (vi) all federal, state and local regulatory or taxing authorities that are reasonably ascertainable by the Debtors to have a known interest in the Acquired Assets; (vii) known non-debtor counterparties to any unexpired leases or executory contracts that could potentially be assumed and assigned to the Successful Bidder; (viii) those parties who expressed a bona fide interest in acquiring the assets in the six (6) months preceding the date of the Motion; and (ix) those parties who have requested notice pursuant to Bankruptcy Rule 2002.

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F. The Debtors published notice of the Sale, the Bidding Procedures, the Asset Purchase Agreement, the time and place of the proposed Auction, the time and place of the Sale Hearing and the time for filing an objection to the Motion on the website maintained by the Debtors' Claims and Noticing Agent appointed in these Chapter 11 cases as well as the National Edition of the New York Times (as evidenced by the Affidavit of Publication set forth at DI 442). With no objection to the Break-Up Fee and Expense Reimbursement having been filed by the deadline for doing so, and, as provided for in the Bidding Procedures Order, upon no objections being filed, the Asset Purchase Agreement having been deemed a stalking horse bid for purpose of the Bidding Procedures, the Bankruptcy Court has previously approved the Break-Up Fee and Expense Reimbursement, which are not subject to appeal or reconsideration as required under the Asset Purchase Agreement.

G. In accordance with the provisions of the Bidding Procedures Order, the Debtors have served notice (as supplemented, the "Assumption and Assignment Notice") of the Executory Contract List upon all of the counterparties to the Assigned Contracts setting forth: (i) the contract(s) and/or lease(s) that may be assumed by the Debtors and assigned to the Purchaser; (ii) the name and address of the non-Debtor counterparty thereto; (iii) the amount, if any, determined by the Debtors to be necessary to be paid to cure and compensate for any existing default in accordance with sections 365(b) and 365(f)(2) of the Bankruptcy Code (the "Cure Costs"); and (iv) the deadlines by which any such counterparty must file an objection to the proposed assumption and assignment of any Assigned Contract.

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H. The service of such Assumption and Assignment Notice (i) was good, sufficient and appropriate under the circumstances of the Chapter 11 Cases, (ii) provided such counterparties with a full and fair opportunity to object to such assumption, assignment, or transfer and to the proposed Cure Costs set forth in the Assumption and Assignment Notice; and (iii) was in compliance with the Bidding Procedures Order and applicable provisions of the Bankruptcy Rules and Local Rules. Accordingly, no other or further notice need be given in connection with such assumption, assignment, or transfer or with respect to the amount of Cure Costs.

I. As evidenced by the affidavits of service previously filed with this Court and as approved under the Bidding Procedures Order: (i) due, proper, timely, adequate and sufficient notice of the Motion, the Auction, the Sale Hearing, the assumption and assignment of the Assigned Contracts, and the Sale has been provided to all parties-in-interest; (ii) such notice was, and is, good, sufficient and appropriate under the circumstances of the Chapter 11 Cases, provided a fair and reasonable opportunity for parties-in-interest to object, and to be heard, with respect thereto, and was provided in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007 and 9014, and the applicable Local Rules; and (iii) no other or further notice with respect to such matters is necessary or shall be required.

#### **Business Judgment**

J. The Debtors have demonstrated good, sufficient and sound business purposes and justifications for, and compelling circumstances to promptly consummate, the Sale and other transactions contemplated by the Asset Purchase Agreement and any ancillary agreements (the



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"Ancillary Agreements"),<sup>5</sup> including, without limitation, the assumption, assignment, and/or transfer of the Assigned Contracts (collectively, the "Transactions") pursuant to sections 363 and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the facts that: (i) there is substantial risk of diminution of the value of the Acquired Assets if the Sale is not consummated promptly; (ii) the Asset Purchase Agreement constitutes the highest or otherwise best offer for the Acquired Assets; (iii) the Asset Purchase Agreement and the Closing will present the best opportunity to realize the value of the Debtors and avoid decline and devaluation of the Debtors' businesses; and (iv) unless the Sale is concluded expeditiously as provided for in this Sale Order and pursuant to the Asset Purchase Agreement, potential creditor recoveries may be substantially diminished.

**Good Faith of the Purchaser; No Collusion**

K. The Debtors have exercised their respective fiduciary duties in evaluating the Transactions and have independently determined that the Transactions are in the best interests of the Debtors, their estates, and their creditors. None of the Purchaser, the Purchaser Designee, nor

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<sup>5</sup> For avoidance of doubt, Ancillary Agreements shall include that certain Transition Services Agreement which may be executed by and among NEMF, Eastern, Carrier and the Purchaser or Purchaser Designee incidental to the closing of the Transactions contemplated by the Asset Purchase Agreement.

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any of their respective representatives or Affiliates have exercised control over the Debtors, or the manner in which the Transactions were approved and authorized by the Debtors.

L. The Purchaser and the Purchaser Designee, as applicable, are purchasing the Acquired Assets in good faith, and each is a good faith purchaser, within the meaning of section 363(m) of the Bankruptcy Code, and each is therefore entitled to, and granted pursuant to paragraphs 28-31 below, the full rights, benefits, privileges, and protections of that provision, and each has otherwise proceeded in good faith in all respects in connection with the Transactions in that, *inter alia*: (i) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring some or all of the Acquired Assets; (ii) the Purchaser complied with the provisions in the Bidding Procedures Order; (iii) the Purchaser agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (iv) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; (v) neither the Purchaser nor the Purchaser Designee has violated section 363(n) of the Bankruptcy Code by any action or inaction; and (vi) the negotiation and execution of the Asset Purchase Agreement and Ancillary Agreements were at arms' length and in good faith.

M. None of the Debtors, the Purchaser, or the Purchaser Designee, or any of their respective representatives, has engaged in any conduct that would cause or permit the Asset Purchase Agreement or any of the Ancillary Agreements, or the consummation of the Transactions, to be avoidable or avoided, or for costs or damages to be imposed, under section

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363(n) of the Bankruptcy Code, or has acted in bad faith or in any improper or collusive manner with any Person in connection therewith.

**Highest and Best Offer**

N. The Debtors have complied in all material respects with, the Bidding Procedures Order. The Debtors and their professionals have, under the circumstances, adequately and appropriately marketed the Acquired Assets in compliance with the Bidding Procedures and the Bidding Procedures Order. The auction process set forth in the Bidding Procedures Order afforded a full, fair and reasonable opportunity for any Person or entity to make a higher or otherwise better offer to purchase the Acquired Assets. The Auction was duly noticed and a reasonable opportunity has been given to any interested party to make a higher or otherwise better offer for the Acquired Assets.

O. The Asset Purchase Agreement constitutes the highest and best offer for the Acquired Assets, and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination that the Asset Purchase Agreement is the highest and best offer for the Acquired Assets constitutes a valid and sound exercise of the Debtors' business judgment.

P. The Asset Purchase Agreement represents a fair and reasonable offer to purchase the Acquired Assets under the circumstances of the Chapter 11 Cases. No other Person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' estates than the Purchaser.

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Q. Approval of the Motion and the Asset Purchase Agreement, and the prompt consummation of the Transactions contemplated thereby, is in the best interests of the Debtors, their creditors, their estates and other parties-in-interest.

**No Fraudulent Transfer; Not a Successor**

R. The Asset Purchase Agreement and Ancillary Agreements were not entered into, and the Transactions are not being consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors under applicable Law, and none of the parties to the Asset Purchase Agreement or any of the Ancillary Agreements are consummating the Transactions with any fraudulent or otherwise improper purpose. The Purchase Price for the Acquired Assets constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable Laws of the United States, any state, territory or possession or the District of Columbia.

S. Except as expressly set forth in the Asset Purchase Agreement with respect to the Assumed Liabilities, the Purchaser and the Purchaser Designee shall have no liability, responsibility, or obligations of any kind or nature whatsoever for any Interest (as defined below) of or against the Debtors, or otherwise related to the Acquired Assets, by reason of the transfer of the Acquired Assets to the Purchaser or such Purchaser Designee. The Purchaser and the Purchaser Designee shall not be deemed, as a result of any action taken in connection with the Transactions, to: (1) be a successor (or other such similarly situated party) to any of the Debtors (other than with

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respect to the Assumed Liabilities as expressly stated in the Asset Purchase Agreement); or (2) have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors. The Purchaser and the Purchaser Designee are not acquiring or assuming any Interest, except as expressly set forth in the Asset Purchase Agreement with respect to the Assumed Liabilities.

#### **Validity of Transfer**

T. Subject to the entry of this Sale Order, the Debtors have full corporate power and authority to (i) perform all of their obligations under the Asset Purchase Agreement and the Ancillary Agreements, and the Debtors' prior execution and delivery thereof and performance thereunder is hereby ratified in full, and (ii) consummate the Transactions. The Asset Purchase Agreement and Ancillary Agreements, and the Transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action. No further consents or approvals are required for the Debtors to consummate the Transactions or otherwise perform their respective obligations under the Asset Purchase Agreement or the Ancillary Agreements, except in each case as otherwise expressly set forth in the Asset Purchase Agreement or applicable Ancillary Agreements.

U. As of the Closing Date, the transfer of the Acquired Assets to the Purchaser or the Purchaser Designee, including, without limitation, the assumption, assignment and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vests the Purchaser and the Purchaser Designee, as applicable, with all right, title, and interest of the Debtors in and to

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the Acquired Assets, free and clear of all Interests accruing or arising any time prior to the Closing Date, except as expressly set forth in the Asset Purchase Agreement.

**Section 363(f) Is Satisfied**

V. The Purchaser and the Purchaser Designee would not have entered into the Asset Purchase Agreement and would not consummate the Transactions contemplated thereby if the sale of the Acquired Assets, including the assumption, assignment and transfer of the Assigned Contracts, to the Purchaser or the Purchaser Designee, as applicable, were not free and clear of all Interests of any kind or nature whatsoever (except as expressly set forth in the Asset Purchase Agreement), or if the Purchaser or the Purchaser Designee, any of their respective subsidiaries or Affiliates, or any of their respective representatives, would, or in the future could, be liable for any of such Interests.

W. The Debtors may sell or otherwise transfer the Acquired Assets free and clear of all Interests because, in each case, one or more of the standards set forth in section 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. Those holders of Interests against the Debtors, their estates or any of the Acquired Assets who did not object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code and their Interests, if any, shall attach to the proceeds of the Sale attributable to the Acquired Assets in which such creditor alleges or asserts an Interest, in accordance with the provisions of paragraph 14 herein. Those holders of such Interests who did object fall within one or more of the other subsections of section 363(f) and are adequately protected by: (i) having their

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Interests, if any, attach to the proceeds of the Sale attributable to the Acquired Assets in which such creditor alleges or asserts an Interest, in the same order of priority, with the same validity, force and effect, that such creditor had immediately prior to consummation of the Sale, subject to any claims and defenses the Debtors and their estates and the Committee may possess with respect thereto, and (ii) the provisions of this Sale Order, including, without limitation, paragraphs 12 and 36.

X. As used in this Sale Order, the term "Interest" includes, in addition to the types of claims described below, all of the following, in each case to the extent against or with respect to any of the Debtors or in, on, or against or with respect to any of the Acquired Assets: liens (as defined in section 101(37) of the Bankruptcy Code, and whether consensual, statutory, possessory, judicial or otherwise), claims (as defined in section 101(5) of the Bankruptcy Code), debts (as defined in section 101(12) of the Bankruptcy Code), reclamation claims, encumbrances, covenants, obligations, charges, indentures, Liabilities (including Liabilities arising under any environmental laws), demands, guarantees, actions, causes of action, suits, defenses, deposits, credits, allowances, options, rights, restrictions, limitations, contractual commitments, rights of first refusal, rights of setoff or recoupment, or interests of any kind or nature whatsoever, whether known or unknown, legal or equitable, matured or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, whether imposed by agreement, understanding, Law, equity or otherwise, including, but not limited to, (i) Interests that purport to give to any Person a

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right or option to effect a setoff against or any forfeiture, modification or termination of the Debtors' interests in the Acquired Assets, or any similar rights; (ii) Interests arising under all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, rights of first refusal or charges of any kind or nature, (iii) Interests that are or constitute, or that arise in connection with or with respect to, any Excluded Liability; (iv) Interests that arise from or in connection with any bulk sales or similar law, and (v) Interests arising under or in connection with any acts, or failures to act, of any of the Debtors or any of the Debtors' predecessors, Affiliates, or subsidiaries, or any of their respective representatives, including, but not limited to, Interests arising under any doctrines of successor, transferee, or vicarious liability, violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under applicable Law or otherwise.

Y. To the greatest extent permitted by applicable law, except as expressly set forth in the Asset Purchase Agreement, the transfer of the Acquired Assets, including the assumption, assignment and/or transfer of the Assigned Contracts, to the Purchaser or the Purchaser Designee, as applicable, shall not subject the Purchaser or the Purchaser Designee, or their respective subsidiaries or Affiliates (other than the Debtors), or any of their respective representatives to, or subject any Acquired Asset to or provide recourse for, any Liability or encumbrance whatsoever with respect to the operation or condition of the business or any of the Acquired Assets prior to the closing or with respect to any facts, acts, actions, omissions, circumstances or conditions



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existing, occurring or accruing with respect thereto prior to the Closing Date, including, without limitation, any Liability or encumbrance arising from any of the following: (i) any employment or labor agreements, consulting agreements, severance arrangements, change in control agreements or other similar agreements to which any Debtor is or was a party, (ii) any pension, welfare, compensation or other employee benefit plans, agreements, practices, and programs, including without limitation, any pension plan of the Debtors, (iii) the cessation of the Debtors' operations, dismissal of employees, or termination of employment or labor agreements or pension, welfare, compensation or other employee benefit plans, agreements, practices and programs and any obligations with respect thereto that arise from the Employee Retirement Income Security Act of 1974, the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Americans with Disabilities Act of 1990, the Federal Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Worker Adjustment and Retraining Notification Act, (iv) workmen's compensation, occupational disease or unemployment or temporary disability insurance claims, (v) environmental liabilities, debts, claims or obligations which may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act or any environmental laws, (vi) products liability or warranties, (vii) any bulk sales or similar law, (viii) any litigation by or against the Debtors and (ix) the Laws of the United States, any state, territory or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, in any theory of law or equity, including, without

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limitation, any theory of antitrust, products liability, or successor, vicarious or transferee liability. For the avoidance of doubt, the Liabilities and encumbrances set forth in this paragraph are included in the defined term "Interests" for all purposes of this Sale Order.

**Assumption, Assignment and/or Transfer of the Assigned Contracts**

Z. The assumption, assignment and/or transfer of the Assigned Contracts to the Purchaser and the Purchaser Designee, as applicable, pursuant to the terms of this Sale Order is integral to the Asset Purchase Agreement and is in the best interests of the Debtors and their estates, creditors and other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

AA. To the extent necessary or required by applicable Law, the Debtors or Purchaser (as set forth in the Asset Purchase Agreement) have or will have as of the Closing Date: (i) cured, or provided adequate assurance of cure, of any default existing prior to the Closing Date with respect to the Assigned Contracts, within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, and (ii) provided compensation, or adequate assurance of compensation, to any party for any actual pecuniary loss to such party resulting from such default, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. The respective amounts set forth in the Executory Contract List attached to the Debtors' Assumption and Assignment Notice (or any Supplemental Notice of Assumption and Assignment served in accordance with the Assumption and Assignment Procedures) are the sole amounts necessary under sections 365(b)(1)(A) and

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365(f)(2)(A) of the Bankruptcy Code to cure all such monetary defaults and pay all actual pecuniary losses under the Assigned Contracts.

BB. The promise of the Purchaser or the Purchaser Designee, as applicable, to perform the obligations first arising under the Assigned Contracts after their assumption and assignment to the Purchaser or the Purchaser Designee, as applicable, constitutes adequate assurance of future performance within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Any objections to the foregoing, the determination of any Cure Costs, or otherwise related to or in connection with the assumption, assignment or transfer of any of the Assigned Contracts to the Purchaser or the Purchaser Designee are hereby overruled on the merits or otherwise treated as set forth below. Those non-Debtor parties to Assigned Contracts who did not object to the assumption, assignment or transfer of their applicable Assigned Contract, or to their applicable Cure Costs, are deemed to have consented thereto for all purposes of this Sale Order.

**Compelling Circumstances for an Immediate Sale**

CC. To maximize the value of the Acquired Assets and preserve the viability of the business to which the Acquired Assets relate, it is essential that the Sale of the Acquired Assets occur within the time constraints set forth in the Asset Purchase Agreement. Time is of the essence in consummating the Sale. The Sale must be approved and consummated promptly in order to preserve the value of the Acquired Assets. Accordingly, there is cause to lift the stay contemplated

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by Bankruptcy Rules 6004 and 6006 with regard to the Transactions contemplated by this Sale Order, the Asset Purchase Agreement and the Ancillary Agreements.

DD. Given all of the circumstances of the Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the Asset Purchase Agreement, the proposed transfer of the Acquired Assets to the Purchaser or Purchaser Designee, as applicable, constitutes a reasonable and sound exercise of the Debtors' business judgment, is in the best interests of the Debtors, their estates, and their creditors, and should be approved.

EE. The consummation of the Transactions is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105, 363 and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Transactions.

FF. The Sale does not constitute a *de facto* plan of reorganization or liquidation or an element of such a plan for any of the Debtors, as it does not and does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtors; (iii) circumvent chapter 11 plan safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests, compromise controversies or extend debt maturities.

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**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED**

**THAT:**

**General Provisions**

1. The Motion and the relief requested therein are granted and approved, and the Transactions contemplated thereby and by the Asset Purchase Agreement and Ancillary Agreements are approved, in each case as set forth in this Sale Order.

2. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

3. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, resolved, or otherwise settled as announced to this Court at the Sale Hearing or by stipulation filed with this Court, and, except as set forth herein and on the Court's record at the Sale Hearing, all reservations of rights included therein, are hereby denied and overruled on the merits.

**Approval of Asset Purchase Agreement; Binding Nature**

4. The Asset Purchase Agreement and the Ancillary Agreements, and all of the terms and conditions thereof, are hereby approved.

5. The offer for the Acquired Assets, as embodied in the Asset Purchase Agreement, was deemed a Qualified Bid (as defined in the Bidding Procedures Order) and is the highest and best offer for the Acquired Assets (thereby providing a greater recovery for the Debtors' estates

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than would be provided by any other available alternative), and the Asset Purchase Agreement and the Ancillary Agreements and all of the terms and conditions thereof, and the Transactions contemplated thereby, are hereby approved in all respects.

6. The consideration provided by the Purchaser for the Acquired Assets under the Asset Purchase Agreement is fair and reasonable and shall be deemed for all purposes to constitute reasonably equivalent value, fair value, and fair consideration under the Bankruptcy Code and any other applicable Law, and the Transactions may not be avoided, or costs or damages imposed or awarded, under section 363(n) or any other provision of the Bankruptcy Code.

7. Pursuant to sections 363 and 365 of the Bankruptcy Code, the Debtors are authorized and empowered to, and shall, take any and all actions necessary or appropriate to (a) consummate the Sale and the other Transactions pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement and the Ancillary Agreements, and (b) execute and deliver, perform under, consummate, implement, and take any and all other acts or actions as may be reasonably necessary or appropriate to the performance of their respective obligations as contemplated by the Asset Purchase Agreement and the Ancillary Agreements, in each case without further notice to or order of this Court. The Transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack or purported lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

8. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any Claim(s) (whether known

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or unknown) against any Debtor, any holders of Interests against, in or on all or any portion of the Acquired Assets, all non-Debtor parties to the Assigned Contracts, the Purchaser, the Purchaser Designee and all successors and assigns of the foregoing, including, without limitation, any trustee, if any, subsequently appointed in the Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Chapter 11 Cases.

**Transfer of Acquired Assets Free and Clear of Interests; Injunction**

9. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Acquired Assets, including but not limited to the Assigned Contracts, to the Purchaser or the Purchaser Designee, as applicable, on the Closing Date in accordance with the Asset Purchase Agreement and the Ancillary Agreements. Upon and as of the Closing Date, such transfer shall constitute a legal, valid, binding and effective transfer of such Acquired Assets and the Purchaser or the Purchaser Designee, as applicable, shall take title to and possession of such Acquired Assets free and clear of all Interests (except as expressly set forth in the Asset Purchase Agreement).

10. All such Interests shall attach solely to the proceeds of the Sale with the same validity, priority, force and effect that they now have as against the Acquired Assets, subject to any claims and defenses the Debtors and their estates and the Committee may possess with respect thereto. This Sale Order shall be effective as a determination that, on and as of the closing, all Interests of any kind or nature whatsoever (except as expressly set forth in the Asset Purchase Agreement) have been unconditionally released, discharged and terminated in, on or against the

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Acquired Assets. The provisions of this Sale Order authorizing and approving the transfer of the Acquired Assets free and clear of Interests shall be self-executing, and neither the Debtors nor the Purchaser (or the Purchaser Designee) shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Sale Order.

11. Upon the closing, the liens on the Acquired Assets of the Debtors granted under any prepetition credit documents to secure the prepetition credit agreement indebtedness shall be deemed released solely with respect to the Acquired Assets, as applicable, and the Debtors shall take all actions required under the Asset Purchase Agreement to confirm the removal of any such liens.

12. Each of the Secured Lenders are hereby directed to deliver to Gibbons P.C. (Attention: Lawrence A. Goldman, Esq.) all titles to the (i) NEMF Rolling Stock as set forth in the Asset Purchase Agreement and (ii) the rolling stock comprising the Acquired Assets under the Asset Purchase Agreement, with the release of liens endorsed on the titles, along with any release of lien documentation necessary to transfer such titles, including without limitation, release of lien letters in form and substance required by the State of New Jersey Motor Vehicle Commission or other applicable State motor vehicle agency (collectively, the "Title Documents"), no later than May 21, 2019. Gibbons P.C. shall hold the Title Documents in escrow for the benefit of each respective Secured Lender and shall only be authorized to release the Title Documents to the Purchaser or the Purchaser Designee after the Purchaser or Purchaser Designee makes the payment



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of the Purchase Price under the Asset Purchase Agreement, and the release of liens by the affected Secured Lender shall be contingent upon the successful closing of the Sale and the payment of the Secured Lender Principal Payments (as such term is defined herein) (the "Lien Release Conditions"). As used herein, "Secured Lender" includes the following (and their respective affiliates and predecessors): (i) JPMorgan Chase Bank, N.A., (ii) TD Bank, N.A., (iii) East West Bank, (iv) Santander Bank, (v) Capital One, N.A., (vi) Wells Fargo Equipment Finance, Inc., (vii) Fifth Third Bank, (viii) Mercedes-Benz Financial Services,<sup>US A</sup> LLC, and (ix) Webster Capital Finance, Inc.

13. In the event that any Title Documents required from a Secured Lender in order to release liens or transfer title in accordance with the requirements of the State of New Jersey Motor Vehicle Commission ("NJMVC") or other State motor vehicle agency has not been provided in accordance with the preceding paragraph or otherwise, provided that the Lien Release Conditions have been satisfied, Phoenix Management Services, LLC ("Phoenix"), acting through Vincent J. Colistra or Albert J. Mink, is hereby authorized, on behalf of each Secured Lender, but only with respect to the NEMF Rolling Stock and the rolling stock comprising the Acquired Assets, to execute and deliver release of lien letters or other instruments required by the NJMVC or other State motor vehicle agency in order to comply with the release of lien requirements of the NJMVC or other State motor vehicle agency requirements. Such authorization is the following:

a. Execution and delivery of release of lien letters on Phoenix official letterhead in substantially the same form as the specimen letter attached hereto as Exhibit B identifying the

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specific vehicle(s) by year, make, model and Vehicle Identification Number ("VIN"), which vehicles may be identified by way of a list appended to the applicable letter; and

b. The release of any Secured Lender lien on any original certificates of title and noted as "paid" by Phoenix by any one of its authorized individuals identified above.

14. For the avoidance of doubt, the liens granted under any prepetition credit documents shall attach to the proceeds of the Sale (including, without limitation, any claims arising from or related to the Asset Purchase Agreement and any proceeds thereof, and any other damages or other amounts recovered by the Debtors in connection with the enforcement of the Sale, this Sale Order, or the Bidding Procedures Order) with the same validity, priority, force and effect that they now have against the Acquired Assets subject to any claims and defenses the Debtors and their estates and the Committee may possess with respect thereto.

15. Except as expressly permitted by the Asset Purchase Agreement or this Sale Order, all Persons and entities holding Interests (other than the Permitted Encumbrances and Assumed Liabilities) are hereby forever barred, estopped and permanently enjoined from asserting their respective Interests against the Purchaser and the Purchaser Designee, any of their respective subsidiaries and Affiliates, and any of their respective representatives, and each of their respective property and assets, including, without limitation, the Acquired Assets. On and after the Closing Date, the Purchaser or the Purchaser Designee, as applicable, shall be authorized to execute and file such documents, and to take all other actions as may be necessary, on behalf of each holder of an Interest to release, discharge and terminate such Interests in, on and against the Acquired Assets

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as provided for herein, as such Interests may have been recorded or may otherwise exist. On and after the Closing Date, and without limiting the foregoing, the Purchaser or the Purchaser Designee, as applicable, shall be authorized to file termination statements or lien terminations in any required jurisdiction to remove any record, lien on title certificate, notice filing, or financing statement recorded to attach, perfect or otherwise notice any Interest that is extinguished or otherwise released pursuant to this Sale Order. This Sale Order constitutes authorization under all applicable jurisdictions and versions of the Uniform Commercial Code and applicable motor vehicle registration statutes for the Purchaser or the Purchaser Designee to file UCC termination statements or other lien releases with respect to all security interests in or liens on the Acquired Assets.

16. On and after the Closing, the Persons holding an Interest shall execute such documents and take all other actions as may be reasonably necessary to release their respective Interests in the Acquired Assets, as such Interests may have been recorded or otherwise filed. The Purchaser or the Purchaser Designee, as applicable, may, but shall not be required to, file a certified copy of this Sale Order in any filing or recording office in any federal, state, county or other jurisdiction in which any Debtor is incorporated or has real or personal property, or with any other appropriate clerk or recorded with any other appropriate recorder, and such filing or recording shall be accepted and shall be sufficient to release, discharge and terminate any of the Interests as set forth in this Sale Order as of the Closing Date. All persons and entities that are in possession

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of any portion of the Acquired Assets on the Closing Date shall promptly surrender possession thereof to the Purchaser or the Purchaser Designee at the closing.

17. The transfer of the Acquired Assets to the Purchaser or the Purchaser Designee pursuant to the Asset Purchase Agreement and Ancillary Agreements does not require any consents other than specifically provided for in the Asset Purchase Agreement.

18. This Sale Order is and shall be binding upon and govern the acts of all Persons and entities (including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, and secretaries of state, federal and local officials) who may be required by operation of law, the duties of their office, or contract to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease. Each of the foregoing Persons and entities shall accept for filing any and all of the documents and instruments necessary and appropriate to release, discharge and terminate any of the Interests or to otherwise consummate the Transactions contemplated by this Sale Order, the Asset Purchase Agreement or any Ancillary Agreement.

**Assigned Contracts; Cure Costs**

19. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon closing, the Debtors' assumption, and assignment and transfer to the Purchaser or Purchaser Designee, of the Assigned Contracts is hereby authorized and approved in full subject to the terms set forth below. The Debtors or Purchaser shall as set forth in the Asset

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Purchase Agreement, on or prior to the Closing, pay the Cure Costs (or reserve the Undisputed Cure Costs as set forth below) and cure any and all other defaults and breaches under the Assigned Contracts so that such Contracts may be assumed by the Debtors and assigned to Purchaser or Purchaser Designee on the Closing Date in accordance with this Sale Order, the Asset Purchase Agreement and the Ancillary Agreements. To the extent any Debtor is responsible for any Cure Costs pursuant to the terms of the Asset Purchase Agreement or Ancillary Agreements, the Purchaser may, upon prior written notice to the Debtors and in its sole discretion, (i) pay such amount(s) on behalf of the Debtors, in which case the Debtors shall have no further responsibility therefor, and (ii) offset such amount(s) against any amount(s) Purchaser may owe the Debtors (including by deducting such amounts, at the closing, from the Purchase Price).

20. Upon and as of the closing, the Debtors are authorized and empowered to, and shall, assume, assign and/or transfer each of the Assigned Contracts to the Purchaser or the Purchaser Designee, as applicable, free and clear of all Interests (except as expressly set forth in the Asset Purchase Agreement). The payment of the applicable Cure Costs (if any), or the reservation by the Debtors of an amount of cash that is equal to the lesser of (i) the amount of any cure or other compensation asserted by the applicable non-Debtor counterparty as required under section 365 of the Bankruptcy Code or (ii) the amount approved by order of this Court to reserve for such payment (such lesser amount, the "Alleged Cure Claim") shall, pursuant to section 365 of the Bankruptcy Code and other applicable Law, (a) effect a cure, or provide adequate assurance of cure, of all defaults existing thereunder as of the Closing Date and (b) compensate, or provide adequate

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assurance of compensation, for any actual pecuniary loss to such non-Debtor party resulting from such default. Accordingly, on and as of the Closing Date, other than such payment or reservation, none of the Debtors, the Purchaser or the Purchaser Designee shall have any further liabilities or obligations to the non-Debtor parties to the Assigned Contracts with respect to, and the non-Debtor parties to the Assigned Contracts shall be forever enjoined and barred from seeking, any additional amounts or asserting claims (as defined in section 101(5) of the Bankruptcy Code) that arose, accrued or were incurred at any time on or prior to the Closing Date on account of the cure or compensation obligations arising under section 365 of the Bankruptcy Code. The Purchaser or the Purchaser Designee, as applicable, has provided adequate assurance of future performance under the relevant Assigned Contracts within the meaning of section 365(f) of the Bankruptcy Code.

21. To the extent any provision in any Assigned Contract assumed or assumed and assigned (as applicable) pursuant to this Sale Order (including, without limitation, any "change of control" provision) (a) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, such assumption or assignment, or (b) is modified, breached or terminated, or deemed modified, breached or terminated by any of the following: (i) the commencement of the Chapter 11 Cases, (ii) the insolvency or financial condition of any Debtor at any time before the closing of the Chapter 11 Cases, (iii) any Debtor's assumption or assumption and assignment (as applicable) of such Assigned Contract, or (iv) the consummation of the Transactions, then such provision shall be deemed modified so as to not entitle the non-Debtor party thereto to prohibit, restrict or condition such assumption or assignment, to modify or terminate such Assigned Contract, or to

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Debtors: New England Motor Freight, Inc., *et al.*

Case No.: 19-12809 (JKS)

Caption: Order (A) Authorizing and Approving (1) The Sale of Substantially all of Debtors' Eastern Freight Ways, Inc. and Carrier Industries, Inc.'s Assets and Certain Assets of New England Motor Freight, Inc. Free and Clear of all Liens, Claims, Encumbrances and Other Interests; and (2) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith; and (B) Granting Related Relief.

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exercise any other default-related rights or remedies with respect thereto, including, without limitation, any such provision that purports to allow the non-Debtor party thereto to recapture such Assigned Contracts, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that are void and of no force and effect pursuant to sections 365(b), 365(e) and 365(f) of the Bankruptcy Code.

22. All requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser or the Purchaser Designee, as applicable, of the Assigned Contracts have been satisfied. Upon the closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser or the Purchaser Designee, as applicable, shall be fully and irrevocably vested with all right, title and interest of the Debtors in and under the Assigned Contracts, and each Assigned Contract shall be fully enforceable by the Purchaser or the Purchaser Designee, as applicable, in accordance with its respective terms and conditions, except as limited or modified by the provisions of this Sale Order. Upon and as of the closing, the Purchaser or the Purchaser Designee, as applicable, shall be deemed to be substituted for the Debtors as a party to the applicable Assigned Contracts and, accordingly, the Debtors shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability under the Assigned Contracts.

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23. Upon the payment of the applicable Cure Costs or reservation of the Alleged Cure Claim, if any, the Assigned Contracts will remain in full force and effect, and no default shall exist, or be deemed to exist, under the Assigned Contracts as of the Closing Date nor shall there exist, or be deemed to exist, any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default. The right of the Purchaser to exclude a contract as an Assigned Contract following entry of this order in the event a cure objection is resolved providing for a cure amount that exceeds the Debtors' proposed cure amount is hereby approved.

24. All non-Debtor counterparties to the Assigned Contracts shall be deemed to have consented to such assumption and assignment under section 365(c)(1)(B) of the Bankruptcy Code and the Purchaser or Purchaser Designee shall enjoy all of the Debtors' rights, benefits and privileges under each such Assigned Contract as of the applicable date of assumption and assignment without the necessity to obtain any non-Debtor parties' written consent to the assumption or assignment thereof.

25. Nothing in this Sale Order, the Motion, or in any notice or any other document is or shall be deemed an admission by the Debtors that any Assigned Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code.

26. The failure of the Debtors, the Purchaser or the Purchaser Designee, as applicable, to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions, or of its respective rights to enforce every term and condition of the Assigned Contracts.



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**Additional Injunction; No Successor Liability**

27. Effective upon the Closing Date and except as expressly set forth in the Asset Purchase Agreement, all Persons and entities are forever prohibited and permanently enjoined from (i) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral or other proceeding), to collect, recover or offset any Interest; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order with respect to an Interest, (iii) creating, perfecting or enforcing any Interest, or (iv) asserting any setoff, right of subrogation or recoupment of any kind with respect to an Interest, in each case as against the Purchaser or the Purchaser Designee, any of their respective subsidiaries or Affiliates, or any of their respective representatives, or any of their respective property or assets, including the Acquired Assets.

28. To the greatest extent permitted by applicable law, the Transactions contemplated by the Asset Purchase Agreement and the Ancillary Agreements do not cause there to be, and there is not (i) a consolidation, merger, or *de facto* merger of the Purchaser or any Purchaser Designee, on the one hand, with or into the Debtors or the Debtors' estates, on the other hand, or vice versa; (ii) a substantial continuity between the Purchaser or any Purchaser Designee, on the one hand, and the Debtors or the Debtors' estates, on the other hand, (iii) a common identity between the Purchaser or any Purchaser Designee, on the one hand, and the Debtors or the Debtors' estates, on the other hand, or (iv) a mere continuation of the Debtors or their estates, on the one hand, with the Purchaser or any Purchaser Designee, on the other hand.

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Debtors: New England Motor Freight, Inc., *et al.*

Case No.: 19-12809 (JKS)

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29. To the greatest extent permitted by applicable law, except as expressly set forth in the Asset Purchase Agreement, the transfer of the Acquired Assets, including, without limitation, the assumption, assignment and transfer of any Assigned Contract, to the Purchaser or any Purchaser Designee shall not cause or result in, or be deemed to cause or result in, the Purchaser or the Purchaser Designee, any of their respective subsidiaries or Affiliates (other than the Debtors), or any of their respective representatives, having any liability, obligation, or responsibility for, or any Acquired Assets being subject to or being recourse for, any Interest whatsoever, whether arising under any doctrines of successor, transferee or vicarious liability, breach of fiduciary duty, aiding or abetting breach of fiduciary duty or otherwise, whether at Law or in equity, directly or indirectly, and whether by payment, setoff, recoupment, or otherwise.

30. For the avoidance of doubt, notwithstanding the consummation of the Transactions and the employment by the Purchaser or Purchaser Designee of certain Persons previously employed by the Debtors, (i) the Purchaser and Purchaser Designees shall not have any obligations or liabilities to any employee of the Debtors or in respect of any employee benefits owing to any employee of the Debtors by the Debtors or by any plan or program administered by the Debtors or for the benefit of the Debtors' employees, and (ii) any obligations of the Purchaser and Purchaser Designees to any such Person shall be expressly limited to (i) those obligations expressly agreed upon by the Purchaser or Purchaser Designee (if any) with such Person, and (ii) those obligations explicitly assumed by the Purchaser or Purchaser Designee (if any) under the Asset Purchase Agreement.

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Case No.: 19-12809 (JKS)

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### **Good Faith**

31. The Transactions contemplated by this Sale Order, the Asset Purchase Agreement and the Ancillary Agreements are undertaken by the Purchaser and the Purchaser Designee without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale and other Transactions shall not alter, affect, limit, or otherwise impair the validity of the Sale or such other Transactions (including the assumption, assignment and/or transfer of the Assigned Contracts), unless such authorization and consummation are duly stayed pending such appeal. Each of the Purchaser and Purchaser Designee is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and hereby granted, the full rights, benefits, privileges and protections of section 363(m) of the Bankruptcy Code.

### **Other Provisions**

32. The Purchaser is hereby authorized, in its discretion, in connection with consummation of the Transactions to allocate the Acquired Assets, Assumed Liabilities, and Assigned Contracts among its Affiliates, subsidiaries, designees, assignees, and/or successors in a manner as it, in its discretion, deems appropriate and such Person shall be entitled to all of the rights, benefits, privileges and protections of the Purchaser as are accorded to the Purchaser under this Sale Order, and the Debtors shall, to the extent set forth in the Asset Purchase Agreement and the Ancillary Agreements, cooperate with and take all actions reasonably requested by Purchaser

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to effectuate any of the foregoing. In the event that the Purchaser designates any Purchaser Designee to acquire any Acquired Assets, including, without limitation, any Assigned Contracts, then any reference to the "Purchaser" in this Sale Order shall be deemed to be a reference to "the Purchaser and/or such applicable Purchaser Designee," unless the context requires otherwise.

33. Nothing in this Sale Order, the Asset Purchase Agreement, Ancillary Agreement or any related document shall constitute or be deemed to constitute a determination of allocation of the Purchase Price or value with respect to or among any Acquired Asset and/or the Purchase Price and all parties' rights with respect to allocation of the Acquired Assets and/or the Purchase Price are reserved; provided, however, the Purchaser may allocate the Purchase Price for tax reporting purposes as provided in the Asset Purchase Agreement without binding the Debtors, any creditor (whether secured or unsecured) of the Debtors, any Secured Lender, the Official Committee of Unsecured Creditors (the "Committee") or any other parties to these Chapter 11 Cases.

34. Nothing in this Sale Order, the Asset Purchase Agreement, Ancillary Agreement or any other related document shall affect any parties' rights, including, but not limited to those of the Debtors, the Committee, Secured Lenders, or any lender/secured creditor, with respect to determination of the nature, extent and validity of a lien on, or guaranty of, any of the Acquired Assets, or the amount or extent of the claims that the Secured Lenders have against the Debtors, as well as with respect to any right of the Debtors' estates, pursuant to Bankruptcy Code section 506(c).

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35. The Transactions shall be exempt from any transfer tax, stamp tax or similar tax pursuant to section 1146 (c) of the Bankruptcy Code, to the fullest extent permitted by law. To the extent the Purchaser or Purchaser Designee deducts any estimated transfer taxes due and owing from the Debtors at closing as permitted by the Asset Purchase Agreement and such transfer taxes are not required to be paid due to the exemptions set forth in this Sale Order or for any other reason, Purchaser or Purchaser Designee shall promptly reimburse the Debtors on account of any such deductions with respect to such estimated transfer taxes that are allocable to the Debtors.

36. Within five business days of the Closing Date or as soon as reasonably practicable thereafter, the Debtors shall pay to (i) JPMorgan Chase Bank, N.A., the sum of \$70,291, representing the principal loan balance for the NEMF Rolling Stock encumbered by JPMorgan Chase Bank, N.A. being sold to Purchaser; (ii) TD Bank, N.A., \$428,294, with \$317,760 being allocated to its principal loan balance with Eastern and \$110,534 being allocated to its principal loan balance with NEMF; (iii) East West Bank, the sum of \$519,257, with \$500,619 representing and allocated to the principal loan balance for the Eastern Rolling Stock encumbered by East West Bank being sold to the Purchaser and \$18,638, representing the and allocated to the principal loan balance for the NEMF Rolling Stock encumbered by East West Bank being sold to the Purchaser; (iv) Santander Bank, \$2,556,433, with \$1,663,002 being allocated to the principal balance of its loans to Eastern and \$236,078 being allocated to the principal balance of its loans to NEMF, and \$657,353 being allocated to the principal balance of a single loan made to Eastern and NEMF as co-borrowers; (v) Capital One, N.A., \$691,014, allocated to and representing the principal loan

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balance with Eastern; (vi) Wells Fargo Equipment Finance, Inc., \$873,440.19, with \$845,268.22 being allocated to its principal loan balance with Eastern for thirteen (13) Freightliner Cascadia trailers and \$28,171.97 being allocated to its principal loan balance with NEMF for two (2) vans (VIN #'s 1GRAP0620FD455933 and 3H3V532C8FT580029); (vii) Fifth Third Bank, \$2,592,613 with \$2,560,208 being allocated to its principal loan balance with Eastern and \$32,405 being allocated to its principal loan balance with NEMF; (viii) Mercedes-Benz Financial Services, LLC, \$1,247,408, allocated to and representing the principal loan balance with Eastern; and (ix) Webster Capital Finance, Inc., \$76,921, allocated to and representing the principal loan balance with NEMF (collectively, the payments set forth in (i) through (ix) the, "Secured Lender Principal Payments"). All other remaining cash sale proceeds received from the Purchaser or Purchaser Designee from the Sale shall be held by the Debtors in a separate segregated escrow account marked "Eastern and Carrier Sale Proceeds" and shall only be distributed pursuant to (i) a confirmed plan, (ii) a further order of this Court or (iii) agreement of the Debtors, the Committee, and the Secured Lenders set forth in this paragraph. All parties' rights are preserved, and nothing in this Sale Order or any action taken to consummate the Sale shall be deemed to impair, compromise or bind the parties with respect to, without limitation, (i) claims of cross-collateralization, (ii) allocation of Sale proceeds among Eastern, Carrier and NEMF, (iii) valuation of Acquired Assets, (iv) the allocation of Sale proceeds among the Secured Lenders, (v) deficiency claims, or (vi) any other theory relating to the rights to Sale proceeds or remaining Sale proceeds. All claims of the Secured Lenders against the Debtors and their estates, including any claim for interest or expenses,

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including any administrative expense claim under 11 U.S.C. § 503, with all parties' rights to object to said claims, are expressly preserved. With respect to the \$157,804.28 that is allocable to the principal loan balance of sixteen (16) Great Dane trailers financed by Wells Fargo Equipment Finance, Inc. (bearing VIN #'s 1GRDM9620FH724489 to -98), such amount shall be held by the Debtors in a separate segregated account marked "Wells Fargo Disputed Sale Proceeds" and absent a settlement reached among the Debtors, the Committee, and Wells Fargo Equipment Finance, Inc., on notice to and opportunity to be heard by the Secured Lenders, the Court shall conduct a hearing on May 29, 2019 at 2 : 00 p.m. (ET) to determine whether such proceeds should be distributed within five business days of the Closing Date to Wells Fargo Equipment Finance, Inc. or to the Debtors' estates for distribution to general unsecured creditors. In the event a settlement is reached prior to the hearing, on notice to and opportunity to be heard by the Secured Lenders, the Debtors shall distribute such proceeds in accordance with the settlement within five business days of the Closing Date and the hearing to determine the ownership of the proceeds will be cancelled.

37. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in (a) the Chapter 11 Cases, (b) any subsequent chapter 7 case into which any such chapter 11 case may be converted, or (c) any related proceeding subsequent to entry of this Sale Order, shall conflict with or derogate from the provisions of the Asset Purchase Agreement or the terms of this Sale Order, including, but not limited to the rights provided to or set forth with respect to the Debtors, Committee, and Secured Lenders designated herein. To the extent of any such

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conflict or derogation, the terms of this Sale Order shall govern. Following closing, the Purchaser shall have no obligations to the Debtors or their estates except for those expressly stated in the Asset Purchase Agreement and/or the Ancillary Agreements.

38. Pursuant to Bankruptcy Rules 6004(h), 6006(d), 7062, and 9014, this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the stays provided in Bankruptcy Rules 6004(h) and 6006(d) are hereby expressly waived and shall not apply. Accordingly, the Debtors are authorized and empowered to close the Sale and other Transactions immediately upon entry of this Sale Order.

39. Nothing in this Sale Order shall modify or waive any closing conditions or termination rights in the Asset Purchase Agreement, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

40. No bulk sales law (including Article 6 of the Uniform Commercial Code) or any similar law of any state or other jurisdiction applies in any way to the Transactions.

41. All payment or reimbursement obligations of the Debtors owed to the Purchaser or any Purchaser Designee pursuant to the Asset Purchase Agreement or the Ancillary Agreements shall be paid in the manner provided therein, without further notice to or order of this Court. All such obligations shall constitute allowed administrative claims against each of the Debtors on a joint and several basis, with first priority administrative expense status under sections 503(b) and 507(a)(2) of the Bankruptcy Code. Until satisfied in full in cash, all such obligations shall continue



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to have the protections provided in this Sale Order, and shall not be discharged, modified or otherwise affected by any reorganization plan for the Debtors.

42. The failure specifically to include any particular provision of the Asset Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Asset Purchase Agreement be authorized and approved in its entirety.

43. The Asset Purchase Agreement and Ancillary Agreements may be modified, amended or supplemented in a writing signed by the parties thereto and in accordance with the terms thereof, without further notice to or order of this Court; provided that any such modification, amendment or supplement shall not have a material adverse effect on the Purchaser, the Purchaser Designee, the Debtors' estates, Committee or the Secured Lenders unless approved by order of this Court.

44. This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b), to, among other things, (i) interpret, implement, and enforce the terms and provisions of this Sale Order, the Asset Purchase Agreement, the Ancillary Agreements, and any amendments thereto and any waivers and consents given thereunder, (ii) compel delivery of the Acquired Assets to the Purchaser or Purchaser Designee; (iii) enforce the injunctions and limitations of liability set forth in this Sale Order, and (iv) enter any orders under sections 363 and 365 of the Bankruptcy Code with respect to the Assigned Contracts.

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45. Nothing in this Sale Order or the Asset Purchase Agreement releases, nullifies, precludes, or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the post-sale owner or operator of property after the date of entry of this Sale Order. Nothing in this Sale Order or the Asset Purchase Agreement authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law. Nothing in this Sale Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Sale Order or to adjudicate any defense asserted under this Sale Order.

46. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

47. The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to implement the provisions of this Sale Order and the terms and conditions of the Asset Purchase Agreement and the Ancillary Agreements.

48. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order, on the one hand, and the Asset Purchase Agreement or any Ancillary Agreement, on the other hand, the terms of this Sale Order shall govern.

**EXHIBIT A**

**Asset Purchase Agreement**

*Execution Version*

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**ASSET PURCHASE AGREEMENT**

BY AND AMONG

**NEW ENGLAND MOTOR FREIGHT, INC.,  
EASTERN FREIGHT WAYS, INC.,  
CARRIER INDUSTRIES, INC.,**

**Debtors in Possession**

AND

**ESTES EXPRESS LINES**

**as Purchaser**

April 17, 2019

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## **SCHEDULES**

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## **EXHIBITS**

Exhibit A	Purchase Price Allocation
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## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") is made and entered into this 17<sup>th</sup> day of April, 2019, by and among New England Motor Freight, Inc., debtor in possession, a New Jersey corporation ("NEMF"), Eastern Freight Ways, Inc., debtor in possession, a New Jersey corporation ("Eastern") and Carrier Industries, Inc., debtor in possession, a New Jersey corporation ("Carrier") and, together with Eastern, "Sellers", and Estes Express Lines, a Virginia corporation ("Purchaser").

**WHEREAS**, Eastern is in the business of providing trucking services in the Northeast and Mid-Atlantic regions of the United States and Carrier is in the business of providing third party logistic services (in the aggregate, the "Business");

**WHEREAS**, NEMF was in the business of providing less than truckload services in the Mid-Atlantic, Midwest and Northeast regions of the United States ("NEMF Business");

**WHEREAS**, on February 11, 2019 (the "Petition Date"), each Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §101, *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), consolidated as Case 19-12809 (JKS) (the "Chapter 11 Case");

**WHEREAS**, each Seller continues in the possession and control of its assets and properties in accordance with §§1107 and 1108 of the Bankruptcy Code;

**WHEREAS**, NEMF continues to be in possession and control of its rolling stock in accordance with §§1107 and 1108 of the Bankruptcy Code; and

**WHEREAS**, Sellers desire to sell substantially all of their assets that are used in connection with the conduct of the Business, and NEMF desires to sell certain of its rolling stock used in the Business, to Purchaser, pursuant to the terms and conditions of this Agreement, and Purchaser desires to so purchase and acquire such assets from Sellers and NEMF (the "Acquisition"), in accordance with §§363 and 365 of the Bankruptcy Code.

**NOW, THEREFORE**, in consideration of the foregoing premises, the representations, warranties, covenants and agreements contained herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

1.1 **Definitions.** As used herein, the following terms shall have the following meanings:

"Accounts Receivable" shall mean all accounts receivable of Sellers and other receivables of Sellers in existence as of the Closing Date (whether or not billed).

"Acquired Assets" has the meaning assigned to that term in Section 2.1(b).

“Acquisition” has the meaning assigned to that term in the Recitals.

“Agreement” has the meaning assigned to that term in the Preamble.

“Affiliate” means, with respect to any Person, any other Person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlled” and “controlling” have meanings correlative thereto.

“Allocation Methodology” has the meaning assigned to that term in Section 6.9(b).

“Allocation Schedule” has the meaning assigned to that term in Section 6.9(b).

“Ancillary Agreements” means any certificate, agreement, document or other instrument to be executed and delivered in connection with this Agreement.

“Approval Order” has the meaning assigned to that term in Section 6.6(a).

“Assigned Contracts” has the meaning assigned to that term in Section 2.1.(b)(vi).

“Assumed Liabilities” has the meaning assigned to that term in Section 2.3.

“Avoidance Actions” means all avoidance claims or causes of action under the Bankruptcy Code or applicable Law (including, without limitation, any preference or fraudulent conveyance).

“Bankruptcy Code” has the meaning assigned to that term in the Recitals.

“Bankruptcy Court” has the meaning assigned to that term in the Recitals.

“Bankruptcy Petition” means a voluntary bankruptcy petition filed by a Debtor with the Bankruptcy Court on the Petition Date.

“Bidding Procedures” means the bidding procedures attached as exhibit 1 to the Bidding Procedures Order, as amended and modified in accordance with ordered paragraph 8 of the Bidding Procedures Order.

“Bidding Procedures Order” means the Order entered in the Chapter 11 Case on April 8, 2019 [docket entry number 427].

“Business” has the meaning assigned to that term in the Recitals.

“Business Day” means any day on which commercial banking institutions are open for business in New Jersey.

“Carrier” has the meaning assigned to that term in the Preamble.



“Causes of Action” shall mean any and all causes of action, defenses, and counterclaims accruing to a Debtor or that is property of the Estate, based upon facts, circumstances and transactions that occurred prior to the Closing Date, and shall include, without limitation, (i) Causes of Action against past and present vendors or customers of a Seller, and (ii) Causes of Action against the directors, officers or other insiders of a Seller, (iii) Avoidance Actions, and (iv) Causes of Action against any administrative or other agent, lender or secured party related to any credit facility existing at any time whether prior to or after the filing of the Bankruptcy Petition.

“Chapter 11 Case” has the meaning assigned to that term in the Recitals.

“Claims” has the meaning assigned to that term in Section 6.6(a)(ii).

“Closing” has the meaning assigned to that term in Section 3.1.

“Closing Accounts Receivable” has the meaning assigned to that term in Section 2.5(b).

“Closing Date” has the meaning assigned to that term in Section 3.1.

“COBRA Continuation Coverage” has the meaning assigned to that term in Section 7.2.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commercial Tort Claims” has the meaning given to it in Section 9-102(13) of the Uniform Commercial Code as in effect in the State of New Jersey.

“Confidentiality Agreement” has the meaning assigned to that term in Section 9.16.

“Contracts” means all agreements, contracts, leases, consensual obligations, promises or undertakings, other than Employee Benefit Plans.

“Cure Amounts” means all amounts, costs and expenses required by the Bankruptcy Court to cure all defaults under the Assigned Contracts so that they may be assumed and assigned to Purchaser pursuant to §§363 and 365 of the Bankruptcy Code.

“Debtor” shall mean a Seller and/or NEMF.

“Deposit” has the meaning assigned to that term in Section 2.6.

“Eastern” has the meaning assigned to that term in the Preamble.

“Employee” means an individual who, as of the applicable date, is employed by, or engaged to provide services to, any Seller in connection with the Business.

“Employee Benefit Plans” shall mean (i) all “employee benefit plans” (as defined in §3(3) of ERISA), including any employee pension benefit plans; (ii) all employment, consulting, non-competition, employee non-solicitation, employee loan or other compensation agreements, and (iii) all bonus or other incentive compensation, equity or equity-based compensation, stock purchase, deferred compensation, change in control, severance, leave of absence, vacation, salary continuation, medical, life insurance or other death benefit, educational assistance, training,

service award, dependent care, pension, welfare benefit or other material employee or fringe benefit plans, policies, agreements or arrangements, whether written or unwritten, qualified or unqualified, funded or unfunded and all underlying insurance policies, trusts and other funding vehicles, in each case currently maintained by or as to which a Seller and/or NEMF has or could reasonably be expected to have any obligation or liability, contingent or otherwise, thereunder for current or former employees, directors or individual consultants of such Seller and/or NEMF.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and regulations and formal guidance issued thereunder.

“Estate” shall mean the estate of a Debtor created by §541 of the Bankruptcy Code upon the filing of the Bankruptcy Petition.

“Excluded Assets” has the meaning assigned to that term in Section 2.2.

“Excluded Liabilities” has the meaning assigned to that term in Section 2.4.

“Final Order” means an order of the Bankruptcy Court that has not been appealed, reversed, modified, amended or stayed and the time to appeal from or to seek review or rehearing of such order has expired.

“Governmental Authorization” means any consent, franchise, license, registration, permit, order or approval issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Law, including, as the context may require, any declarations or filings with, or expiration of waiting periods imposed by, any such Governmental Body.

“Governmental Body” means any (i) nation, state, county, city, town, borough, village, district or other jurisdiction, (ii) federal, state, local, municipal, foreign or other government, (iii) governmental or quasi-governmental body of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers), (iv) multinational organization or body, (v) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, or (vi) official of any of the foregoing.

“Income Tax” means any Tax imposed on or determined in whole or in part with reference to income, gross receipts, profits or similar measure, including any interest, penalty or other addition with respect thereto.

“Intellectual Property” means all trademarks, trade names, corporate names, company names, business names, product or brand names, service marks, patents, copyrights (including but not limited to moral rights), and any applications for or registrations of any of the foregoing, works of authorship, know-how, logos, proprietary information, protocols, schematics, specifications, software, software code (in any form, including source code and executable or object code), subroutines, techniques, user interfaces, URLs, domain names, web sites, works of authorship and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing, such as instruction manuals, laboratory notebooks, prototypes, samples, studies and summaries) inventions, trade secrets and any other intellectual property or

intangible property that are used in the Business as presently conducted and any rights relating to any of the foregoing.

“Inventory” means all supplies, goods, materials, work in process, inventory and stock in trade owned by a Seller for use or sale in the ordinary course of Business, but specifically excluding (1) goods which belong to sublessees, licensees or concessionaires of such Seller, and (2) goods held by such Seller on memo, on consignment, or as bailee.

“Law” means any applicable federal, state, local, municipal, foreign, international, multinational or other constitution, law, ordinance, principle of common law, code, regulation, statute or treaty.

“Liability” means any and all obligations, liabilities, debts and commitments, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, due or to become due, whenever or however arising (including, without limitation, whether arising out of any contract or tort based on negligence, strict liability, or otherwise) and whether or not the same would be required by GAAP to be reflected as a liability in financial statements or disclosed in the notes thereto.

“Lien” means any mortgage, deed of trust, lien, pledge, charge, title defect, security interest, pledge, leasehold interest or other legal or equitable encumbrance of any kind.

“Material Adverse Change” means any change, event, occurrence, fact, circumstance, or effect as shall have arisen after the date of this Agreement and prior to the Closing that would reasonably be expected to have, individually or in the aggregate, a materially adverse effect on (i) the operations, financial condition, business, assets or properties of Sellers, taken as a whole, or (ii) the ability of any of the parties hereto to consummate the transactions contemplated by this Agreement; provided, however, that any change, circumstance, or effect that arises out of, results from or relates to the commencement or conduct of the Chapter 11 Case shall not be considered in determining whether a Material Adverse Change has occurred and, in addition, no change, event, effect, condition, circumstance or occurrence related to any of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been, a Material Adverse Change: (i) national or international business, economic, political or social conditions, including the engagement by the United States of America in hostilities, affecting (directly or indirectly) the industry in which the Sellers operate, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States of America, except to the extent that such change has a disproportionate adverse effect on the Sellers relative to the adverse effect that such changes have on other companies in the industry in which the Sellers operate; (ii) financial, banking or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index), except to the extent that such change has a disproportionate adverse effect on the Sellers relative to the adverse effect that such changes have on other companies in the industry in which the Sellers operate; (iii) any change in GAAP or Law, except to the extent that such change has a disproportionate adverse effect on the Sellers relative to the adverse effect that such changes have on other companies in the industry in which the Sellers operate; (iv) compliance with this Agreement or any related agreement, including the taking of any action required hereby or thereby or the failure to take any action that is not permitted hereby or thereby; (v) any change

directly attributable to the announcement of this Agreement, including by reason of the identity of Purchaser or any of its Affiliates or any communication by Purchaser or any of its Affiliates of their plans or intentions regarding the operation of the Business; or (vi) in the case of Sellers, any failure to meet or exceed any projection or forecast provided to or reviewed by the Purchaser (provided that the underlying causes of any failure to meet such projection or forecast, to the extent not otherwise excluded from the definition of “Material Adverse Change”, shall not be disregarded and may be considered in determining whether a “Material Adverse Change” has occurred).

“NEMF” has the meaning assigned to that term in the Preamble.

“NEMF Business” has the meaning assigned to that term in the Recitals.

“NEMF Rolling Stock” has the meaning assigned to that term in Section 2.1(a).

“Notice of Stalking Horse Bid” has the meaning assigned to that term in Section 6.3.

“Permitted Liens” means (i) Liens for Taxes, assessments and other governmental levies, fees or charges that are not yet due and payable and for which (and only to the extent that) adequate reserves (as determined in accordance with GAAP, consistently applied) have been established on the financial statements with respect thereto, (ii) pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security legislation, (iii) Liens which constitute mechanics’, carriers’, workmens’, repairmens’, agricultural or other like Liens arising or incurred in the ordinary course of business for which amounts are not delinquent, and (iv) Liens created by Purchaser, and (v) any Lien that constitutes an Assumed Liability.

“Person” means any individual, corporation, partnership, joint venture, trust, association, limited liability company, unincorporated organization, other entity, or governmental body or subdivision, agency, commission or authority thereof.

“Personal Property” has the meaning assigned to that term in Section 2.1(b)(ii).

“Petition Date” has the meaning assigned to that term in the Recitals.

“Purchase Price” has the meaning assigned to that term in Section 2.5(a).

“Purchaser” has the meaning assigned to that term in the Preamble.

“Rights in Transaction-Related Privileges” has the meaning assigned to such term in Section 2.2(m).

“Sellers” has the meaning assigned to that term in the Preamble.

“Target Accounts Receivable” means \$2,000,000 (excluding any receivable due from HH Brown).

“Tax” or “Taxes” means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, custom duties, capital stock, franchise, profits, withholding, social security (or

similar excises), unemployment, disability, ad valorem, real property, personal property, sales, use, transfer, registration, unclaimed property, escheat, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not, by any governmental authority responsible for imposition of any such tax (domestic or foreign).

“Tax Clearance Certificate” has the meaning assigned to that term in Section 6.9(c).

“Tax Purchase Price” has the meaning assigned to that term in Section 6.9(b).

“Transaction-Related Documents” has the meaning assigned to such term in Section 2.2(m).

“Transactions” has the meaning assigned to that term in Section 2.4.

“Transferred Employee” has the meaning assigned to that term in Section 7.1.

“Transfer Tax” means any sales, use, transfer, stamp, conveyance, value added or other similar Taxes, duties, excises or governmental charges imposed by any Tax authority, domestic or foreign, and all recording or filing fees (excluding vehicle registration fees), notarial fees and other similar costs; provided, however, that the term “Transfer Tax” shall not include any Income Tax.

“WARN Act” means each of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2101 *et seq.* or the Millville Dallas Airmotive Plant Job Loss Notification Act (New Jersey WARN Act) and any applicable similar state or local law which imposes obligations in circumstances of mass termination of employment.

## ARTICLE II SALE AND PURCHASE OF ASSETS

### 2.1 Sale and Purchase of Assets.

(a) On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Purchaser shall purchase from NEMF, and NEMF shall sell, assign, transfer, convey and deliver to Purchaser, all of NEMF’s right, title and interest in and to the trucks, trailers and other rolling stock identified on *Schedule 2.1(a)* (the “NEMF Rolling Stock”), as those assets exist on the Closing Date, free and clear of any Lien other than Permitted Liens.

(b) On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Purchaser shall purchase from each Seller, and each Seller shall sell, assign, transfer, convey and deliver to Purchaser, all of such Seller’s right, title and interest in and to all assets, properties, rights, interests, benefits and privileges of whatever kind or nature, both tangible and intangible, real and personal, wherever located, whether owned or leased, that are used by such Seller in connection with the operation of the Business (except for the Excluded Assets), to the extent transferable under applicable Law, the Bankruptcy Code or otherwise, as those assets, properties, rights, interests, benefits and privileges exist on the Closing Date, free and clear of any Lien other than Permitted Liens. Without limiting the foregoing, the assets, properties, rights, interests, benefits and privileges sold, assigned, transferred, conveyed and

delivered by each Debtor hereunder (collectively with the NEMF Rolling Stock, the "Acquired Assets") shall include all of such Debtors' right, title and interest in and to the following (except to the extent any of the following are included within Excluded Assets):

(i) all of such Seller's forklifts, trucks, trailers and other rolling stock identified on *Schedule 2.1(b)(i)*;

(ii) all of such Seller's supplies, materials, machinery, non-rolling stock equipment (including equipment that is subject to a capital lease, but only to the extent that Purchaser assumes such capital lease as an Assigned Contract), spare parts, tools, furniture, fixtures, furnishings, leasehold improvements, goods, and other tangible personal property owned by such Seller, including, but not limited to, any owned computer hardware and software (collectively, "Personal Property");

(iii) all of such Seller's Inventory;

(iv) all of such Seller's books and records relating to the Acquired Assets, property records, mailing lists, and customer and vendor lists;

(v) all of such Seller's rights in Intellectual Property;

(vi) all of such Seller's Contracts, agreements, licenses, leases, warranties, commitments, and purchase and sale orders with respect to Personal Property, Intellectual Property or otherwise that are designated by Purchaser to be assumed and assigned on the Closing Date in accordance with the Bidding Procedures Order and provided further that Purchaser shall have provided adequate assurance of future performance under §365(b)(1)(C) of the Bankruptcy Code with respect to any designated contract (collectively, "Assigned Contracts") (with such Assigned Contracts to be identified and designated in the form of a written Schedule to be provided by Purchaser), together with the right to receive income in respect of such Assigned Contracts on and after the Closing Date. As contemplated by ordered paragraph 20 of the Bidding Procedures Order, Purchaser shall have no later than one (1) Business Day prior to the hearing to approve the sale contemplated by the Agreement to add or exclude any Contract from the Assigned Contracts to be assumed and assigned under this Section 2.1(b)(vi) or, if the Bankruptcy Court determines at any hearing on a Cure Amount/Assignment Objection (as defined in the Bidding Procedures Order) that the applicable cure amount associated with such Contract is greater than the Cure Amount proposed by the Debtors, the Purchaser shall have five (5) business days following the Bankruptcy Court's determination to exclude such Contract as an Assigned Contract;

(vii) all of such Seller's Governmental Authorizations and all of such Seller's pending applications therefor or renewals thereof, but excluding Governmental Authorizations or pending applications therefor required for the continued operation of an Excluded Asset;

(viii) all of such Seller's Accounts Receivable;

(ix) copies of all personnel records (including all personnel, human resources and other records) of Sellers relating to the Transferred Employees; and

- (x) all goodwill relating to the Acquired Assets and/or the Business.

2.2 **Excluded Assets.** Notwithstanding the provisions of Section 2.1 or any other provision of this Agreement, the Acquired Assets do not include, and no Debtor shall transfer to Purchaser, any of the following assets, properties, rights, interests, benefits and privileges (collectively, the "Excluded Assets"):

- (a) all cash, bank deposits, securities and cash equivalents, including for this purpose (i) all cash and cash equivalents if credited to a Seller's bank account(s) prior to the Closing Date, and (ii) all deposits and other prepaid amounts arising outside of the ordinary course of a Seller's business, including without limitation all such amounts held by a Seller's landlords, utility providers, vendors, attorneys, accountants, investment bankers, restructuring advisors, notice and claims agents, public relations advisors, and other professional advisors;

- (b) all Contracts of the Sellers other than the Assigned Contracts;

- (c) all of such Seller's prepaid expenses, advances and deposits, including (i) prepaid expenses, advances and deposits allocable to the Assigned Contracts that relate to the period prior to the Closing Date, and (ii) any deposits, security retainers paid to professionals or other prepaid amounts referred to in Section 2.2(a) above or Section 2.2(g) below;

- (d) all of such Seller's rights with respect to Employee Benefit Plans and all Contracts, agreements, licenses, leases, warranties, commitments, and purchase and sale orders and the rights associated therewith, other than the Assigned Contracts assumed as provided in Section 2.1(g);

- (e) all shares of capital stock or other equity interests in any Person held by any Seller, and all corporate minute books and records of internal corporate proceedings, stock transfer ledgers, blank stock certificates, corporate seals, tax and accounting records, work papers and other records relating to the organization or maintenance of the legal existence of a Seller;

- (f) any accounting records, tax records, financial records and any books, records or other information related solely and exclusively to the other Excluded Assets;

- (g) all records that a Seller is required by law to retain;

- (h) all refunds, credits or deposits of Taxes with respect to the period prior to the Closing Date, including without limitation any refunds, credits or deposits of Taxes arising as a result of Seller's operation of the Business or ownership, operation, utilization or maintenance of the Acquired Assets prior to the Closing Date;

- (i) all Causes of Action;

- (j) all rights to receive mail and other communications addressed to a Seller that do not relate to the Acquired Assets or the Assumed Liabilities;

- (k) the corporate franchise of any Seller and any and all prepaid expenses and deposits in respect of franchise Taxes and the like;

(l) all property, rights and assets relating to an Excluded Asset or arising from and relating to the defense, release, compromise, discharge or satisfaction of any of the Liabilities which are not Assumed Liabilities;

(m) all documents, emails and other communications relating to the negotiation of the transactions contemplated hereby or any preparations or planning with respect thereto, including without limitation all such materials consisting of memoranda, research, analysis, planning, due diligence reports, quality of earnings reports, agreements with financial advisors, investment bankers, accountants or legal counsel, whether or not subject to any attorney-client privilege, work product privilege, or any other privilege (the "Transaction-Related Documents"), and any Seller's right to exercise or waive any attorney-client privilege, work product privilege or other privilege with respect to the transactions contemplated hereby or any of the Transaction-Related Documents (the "Rights in Transaction-Related Privileges");

(n) all rights of Debtors arising under this Agreement, the Ancillary Agreements, and under any other agreement between Debtors and Purchaser entered into in connection with this Agreement;

(o) all good faith or other bid deposits submitted by any third party under the terms of the Bidding Procedures Order;

(p) all insurance policies of any of the Sellers and/or their subsidiaries for directors', managers', and officers' liability and all rights of any nature with respect thereto, including all insurance recoveries, prepaid premiums, and unearned premiums thereunder and rights to assert claims with respect to any such insurance recoveries;

(q) all Commercial Tort Claims of the Sellers;

(r) all claims of a Debtor against another Debtor;

(s) all of NEMF's right, title and interest in and to all assets, properties, rights, interests, benefits and privileges of whatever kind or nature, both tangible and intangible, real and personal, wherever located, whether owned or leased, that are or were used by NEMF in connection with the NEMF Business, except the NEMF Rolling Stock.

2.3 **Assumed Liabilities.** Upon the terms and subject to the conditions set forth herein, at the Closing, Purchaser shall only assume and shall only timely perform and discharge in accordance with their respective terms the following: (a) all Cure Amounts with respect to the Assigned Contracts, (b) all Liabilities with respect to the Assigned Contracts, solely to the extent such Liabilities relate to the period after the Closing, and (c) all Liabilities (including for any Tax) that arise after Closing with respect to Purchaser's ownership or operation of the Acquired Assets after the Closing (collectively "Assumed Liabilities"). For the avoidance of doubt, Assumed Liabilities shall not include any Liabilities of NEMF of any kind whatsoever.

2.4 **Excluded Liabilities.** Notwithstanding anything to the contrary contained in any other provision of this Agreement, Purchaser, by its execution and delivery of this Agreement and the Ancillary Agreements and its performance of the transactions contemplated by this Agreement and the Ancillary Agreements (the "Transactions"), shall not assume, pay or otherwise be



responsible for any Liability other than the Assumed Liabilities (the "Excluded Liabilities"). The Excluded Liabilities shall be the sole responsibility of the Debtors, and shall be paid, satisfied, honored and discharged by the Debtors.

**2.5 Purchase Price; Adjustment.**

(a) Subject to the adjustment contemplated by Section 2.5(b) below, the aggregate consideration payable to Debtors for the sale and transfer of the Acquired Assets shall be (a) Fifteen Million Dollars (\$15,000,000 (the "Purchase Price"), and (b) the assumption by Purchaser of the Assumed Liabilities. At the Closing, Purchaser shall deliver the Purchase Price (less the Deposit) to Debtors, by wire transfer of immediately available funds to one or more accounts designated in writing by Debtors.

(b) On the Business Day prior to the Closing, Sellers shall deliver to Purchaser a statement setting forth the aggregate amount of the Seller's Accounts Receivable (the "Closing Accounts Receivable"), such statement being subject to Purchaser's review and approval. If the amount of the Closing Accounts Receivable is less than the Target Accounts Receivable, the Purchase Price shall be reduced on a dollar-for-dollar basis. If the amount of the Closing Accounts Receivable is greater than the Target Accounts Receivable, the Purchase Price shall be increased on a dollar-for-dollar basis.

**2.6 Deposit.** Contemporaneously with the execution of this Agreement by Purchaser, Purchaser shall deposit, in accordance with the good faith deposit provisions of the Bidding Procedures Order, One Million Five Hundred Thousand Dollars (\$1,500,000) (the "Deposit") by cashier's check or wire transfer. The Deposit shall be credited against the Purchase Price at the Closing if Purchaser is the successful bidder for the Acquired Assets. If this Agreement is terminated for any reason, then the Deposit shall be forfeited to Debtors or returned to Purchaser as provided in Article VIII and the Bidding Procedures Order.

**2.7 Withholding.** Purchaser shall be entitled to deduct and withhold from any amounts payable or otherwise deliverable pursuant to this Agreement such amounts as may be required to be deducted or withheld therefrom under the Code or under any provision of state, local or foreign Law. Prior to withholding an amount hereunder, the Purchaser shall notify the payee in writing of the amount to be withheld. To the extent such amounts are so deducted or withheld, the amount of such consideration shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

**ARTICLE III  
CLOSING; CONDITIONS TO CLOSING**

**3.1 Closing.** Subject to the terms and conditions of this Agreement, the closing (the "Closing") of the sale and purchase of the Acquired Assets and the assumption of the Assumed Liabilities shall take place at a time and place specified in the Approval Order. The time and date upon which the Closing occurs is referred to herein as the "Closing Date". Transactions at the Closing shall be deemed to take place simultaneously and none shall be deemed to have taken place until all shall have taken place.

3.2 **Court Approval Required.** Purchaser and Debtors acknowledge and agree that the Bankruptcy Court's entry of the Approval Order shall be required in order to consummate the Transactions, and that the requirement that the Approval Order be entered is a condition that cannot be waived by any party.

3.3 **Conditions to Obligations of Purchaser.** The obligation of Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction, at or before the Closing, of each of the following conditions, any of which conditions may, except for the condition set forth in Section 3.2, be waived by Purchaser in its sole discretion:

(a) **Representations and Warranties.** The representations and warranties of Debtors set forth in Article IV of this Agreement shall be true and correct in all material respects (except for those representations and warranties qualified by materiality, which shall be true and correct in all respects) on the date hereof and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date).

(b) **Agreements and Covenants.** Debtors shall have performed and complied with each agreement, covenant and obligation required to be performed or complied with by them under this Agreement at or before the Closing in all material respects.

(c) **Deliveries at Closing.** Debtors shall cause Purchaser to receive duly executed assignments, trademark domain name assignments, bills of sale or certificates of title, non-foreign person affidavits in accordance with Section 1.1445-2(b) of the Treasury Regulations, each dated as of the Closing Date, in form and substance reasonably satisfactory to Purchaser, for the transfer to Purchaser of all of such Debtor's right, title and interest in and to the applicable Acquired Assets free and clear of any Lien other than Permitted Liens.

(d) **Lease for North Brunswick Property.** Purchaser and the owner of the real property commonly known as 212 Black Horse Lane, North Brunswick, NJ 08852, together with all buildings, structures, fixtures and improvements of all kinds situated thereon shall have entered a lease for a portion of such facility in form and substance satisfactory to Purchaser.

(e) **Consents.** All consents, authorizations, or approvals required to be obtained from any Governmental Authority shall have been obtained and be in full force and effect.

(f) **No Material Adverse Change.** A Material Adverse Change shall not have occurred with respect to the Business or the Acquired Assets (taken as a whole).

(g) **Break-Up Fee and Expense Reimbursement.** Both the Break-Up Fee and the Expense Reimbursement shall have been approved by the Bankruptcy Court and not subject to appeal or reconsideration.

(h) **Bidding Procedures.** The Bidding Procedures as set forth in the Notice of Stalking Horse Bid, shall have been approved by the Bankruptcy Court and not subject to appeal or reconsideration.

(i) Approval Order. The Bankruptcy Court shall have entered the Approval Order which shall be reasonably satisfactory to Purchaser and contain certain findings and rulings including, without limitation, the following: (i) approving the sale of the Acquired Assets to Purchaser free and clear of all Liens and Claims, (ii) approving the assumption and assignment of the Assigned Contracts to Purchaser, (iii) providing for the waiver of the fourteen (14) day automatic stay contained in Federal Rule of Bankruptcy Procedure 6004(h), (iv) finding that Purchaser is a “good faith purchaser” within the meaning of Section 363(m) of the Bankruptcy Code and is thereby entitled to the protection afforded a good faith, arms-length purchaser, (v) finding that the Purchase Price is fair and reasonable; (vi) finding that this Agreement was negotiated at arms-length; and (vii) finding that the sale of the Acquired Assets hereunder was conducted in a “non-collusive manner” within the meaning of Section 363(n) of the Bankruptcy Code, and the Approval Order shall have become a final, non-appealable order.

3.4 Conditions to Obligations of Debtors. The obligation of each Debtor to consummate the transactions contemplated by this Agreement is subject to the satisfaction, at or before the Closing, of each of the following conditions, any of which conditions may, except for the condition set forth in Section 3.2, be waived by any Debtor in its sole discretion:

(a) Representations and Warranties. The representations and warranties of Purchaser set forth in Article V of this Agreement shall be true and correct in all material respects (except for those representations and warranties qualified by materiality, which shall be true and correct in all respects) on the date hereof and on and as of the Closing Date, as though made on and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date).

(b) Agreements and Covenants. Purchaser shall have performed and complied with each agreement, covenant and obligation required to be performed or complied with by it under this Agreement at or before the Closing in all material respects.

(c) Deliveries at Closing. Debtors shall have received from Purchaser all fully executed instruments or documents as any Debtor may reasonably request to fully effect the transfer of the Acquired Assets and assumption of the Assumed Liabilities and to otherwise consummate the Transactions.

(d) Consents. All consents, authorizations, or approvals required to be obtained from any Governmental Authority shall have been obtained and be in full force.

3.5 Delivery of Possession of Assets. Right to possession of all Acquired Assets shall transfer to Purchaser at the Closing. Purchaser shall bear all risk of loss with respect to the Acquired Assets from and after the Closing.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF DEBTORS**

Each Debtor represents and warrants to Purchaser, with respect to itself only, severally and not jointly, that the statements contained in this Article IV are true and correct as of the date hereof and will be true and correct on the Closing Date.

4.1 **Organization, Good Standing and Power.** Such Debtor is legally formed and in good standing under the laws of the State of its incorporation. Subject to the applicable provisions of the Bankruptcy Code, such Debtor has the power to own its properties and carry on its business as now being conducted and is qualified to do business and is in good standing in each jurisdiction in which the failure to be so qualified and in good standing would result in a Material Adverse Change.

4.2 **Authority Relative to this Agreement; Execution and Binding Effect.** Such Debtor has full power and authority to execute and deliver this Agreement and the Ancillary Agreements and, subject to receipt of any necessary Bankruptcy Court approval in accordance with the Bankruptcy Code, to consummate the Transactions applicable to such Debtor. The execution and delivery of this Agreement and the Ancillary Agreements and the consummation of the Transactions have been duly and validly approved and adopted by the board of directors of such Debtor, and, except for Bankruptcy Court approval, no other proceedings or approvals on the part of such Debtor are necessary to approve this Agreement and the Ancillary Agreements and to consummate the Transactions. This Agreement has been duly and validly executed and delivered by such Debtor. Assuming due authorization, execution and delivery by Purchaser, this Agreement constitutes, and each of the Ancillary Agreements at the Closing will constitute, the valid and binding obligation of such Debtor, enforceable against such Debtor in accordance with their terms, except as such enforcement may be limited by (a) the effect of bankruptcy, insolvency, reorganization, receivership, conservatorship, arrangement, moratorium or other laws affecting or relating to the rights of creditors generally, or (b) the rules governing the availability of specific performance, injunctive relief or other equitable remedies and general principles of equity, regardless of whether considered in a proceeding in equity or at law.

4.3 **Governmental and Other Consents.** Except for the receipt of any necessary Bankruptcy Court approval in accordance with the Bankruptcy Code, no consent, notice, authorization or approval of, or exemption by, or filing with or notifications to any Governmental Authority or any other Person, whether pursuant to contract or otherwise, is required in connection with the execution and delivery by such Debtor of this Agreement and the Ancillary Agreements and the consummation of the Transactions.

4.4 **No Brokers.** No Debtor has incurred or will incur, directly or indirectly, as a result of any action taken or permitted to be taken by or on behalf of such Debtor, any Liability for brokerage or finders' fees or agents' commissions or similar charges in connection with the execution and delivery by such Debtor of this Agreement and the Ancillary Agreements and the consummation of the Transactions.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to Debtor that the statements contained in this Article V are true and correct as of the date hereof and will be true and correct on the Closing Date.

5.1 **Organization, Good Standing and Power.** Purchaser is legally formed and in good standing under the laws of the state of its incorporation. Purchaser has the power to own its properties and carry on its business as now being conducted and is qualified to do business and is

in good standing in each jurisdiction in which the failure to be so qualified and in good standing would result in a Material Adverse Change.

**5.2 Authority Relative to this Agreement; Execution and Binding Effect.**

Purchaser has full power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the Transactions. The execution and delivery of this Agreement and the Ancillary Agreements and the consummation of the Transactions have been duly and validly approved and adopted by all necessary action of Purchaser and no other proceedings or approvals (shareholder or otherwise) on the part of Purchaser are necessary to approve this Agreement and the Ancillary Agreements and to consummate the Transactions. This Agreement has been duly and validly executed and delivered by Purchaser. Assuming due authorization, execution and delivery by each Debtor, this Agreement constitutes, and each of the Ancillary Agreements at the Closing will constitute, the valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with their terms, except as such enforcement may be limited by (a) the effect of bankruptcy, insolvency, reorganization, receivership, conservatorship, arrangement, moratorium or other laws affecting or relating to the rights of creditors generally, or (b) the rules governing the availability of specific performance, injunctive relief or other equitable remedies and general principles of equity, regardless of whether considered in a proceeding in equity or at law.

**5.3 No Defaults.** The execution and delivery by Purchaser of this Agreement and the Ancillary Agreements and the consummation of the Transactions do not and will not (a) with or without the giving of notice or the lapse of time, or both, conflict with, or result in the material breach of or constitute a material default under, or result in the modification, cancellation, lapse or termination of, or limitation, or curtailment under, or materially violate any (i) provision of Law, or (ii) agreement (including without limitation any loan or financing agreement), Contract, lease, power of attorney, commitment, instrument, insurance policy, arrangement, undertaking, order, decree, ruling or injunction to which Purchaser is subject or a party or by which it is bound (or with respect to which its properties or assets are subject or bound); or (b) violate the articles of incorporation or bylaws of Purchaser.

**5.4 Governmental and Other Consents.** Except for the receipt of any necessary Bankruptcy Court approval in accordance with the Bankruptcy Code and any bulk sales filings to be made by Purchaser, no consent, notice, authorization or approval of, or exemption by, or filing with or notifications to any Governmental Authority or any other Person, whether pursuant to contract or otherwise, is required in connection with the execution and delivery by Purchaser of this Agreement and the Ancillary Agreements and the consummation of the Transactions.

**5.5 Financial Ability.** Purchaser has cash available that is sufficient to enable it to pay the Deposit and the Purchase Price, as well as all other amounts (including Cure Amounts) otherwise payable to consummate the Transactions pursuant to and in accordance with this Agreement.

**5.6 No Brokers.** Purchaser has not incurred and will not incur, directly or indirectly, as a result of any action taken or permitted to be taken by or on behalf of Purchaser, any Liability for brokerage or finders' fees or agents' commissions or similar charges in connection with the

execution and delivery by Purchaser of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby.

## **ARTICLE VI COVENANTS**

6.1 **Operation of Business.** Subject to the requirements of, and the obligations imposed upon, each Debtor as debtor-in-possession and pursuant to the Bankruptcy Code and except as otherwise contemplated by this Agreement or the Bidding Procedures Order or as required to comply with debtor-in-possession financing obtained by such Debtor, from the date hereof and until the Transactions shall have been consummated or abandoned as contemplated herein, each Debtor shall operate the Business in the ordinary course (relative to that in effect immediately prior to the execution of the Agreement) and, consistent with such operation and the budget set forth in Debtor's debtor-in-possession credit agreement, and consistent with acting as a debtor-in-possession in a Chapter 11 bankruptcy case, shall use commercially reasonable efforts to maintain the goodwill associated with the Business and the relationships with the employees, customers and suppliers of the Business. Without limiting the generality of the foregoing, from and after the date hereof until the earlier of the Closing or the termination of this Agreement in accordance with its terms, the Sellers shall not (except as consented to in writing by Purchaser) do any of the following: (a) hire any employees or terminate the services of any existing employees, increase, accelerate or provide for additional compensation, benefits (fringe or otherwise) or other rights to any current or former employee, or agree to do any of the foregoing, except as required by applicable law, and (b) materially modify, change, renew, extend or terminate any Contract or relationship with any customer of the Business, other than renewals or extensions in the ordinary course of business.

6.2 **Bidding Procedures Order.** The purchase and sale of the Acquired Assets will be subject to competitive bidding in accordance with (and only in accordance with) the terms of the Bidding Procedures Order and the Bidding Procedures. For the avoidance of doubt, the Purchaser shall constitute a Qualified Bidder and this Agreement a Qualified Bid under the Bidding Procedures.

6.3 **Notice of Stalking Horse Bid.** Following the execution of this Agreement by the Debtors and the Purchaser, the Debtors shall file and serve a notice on the Bankruptcy Court docket in accordance with ordered paragraph 8 of the Bidding Procedures Order providing notice of this Agreement which shall serve as a Stalking Horse Bid (as defined in the Bidding Procedures Order) and certain amendments or modifications to the Bidding Procedures, in form reasonable satisfactory to Purchaser (the "Notice of Stalking Horse Bid").

6.4 **Break-Up Fee and Expense Reimbursement.** As provided for in the Bidding Procedures and the Bidding Procedures Order, Purchaser shall be entitled to a Break-Up Fee (as defined in the Bidding Procedures Order) in the amount of \$450,000 and an Expense Reimbursement (as defined in the Bidding Procedures Order) in the amount of \$75,000. The Notice of Stalking Horse Bid shall provide notice of the Break-Up Fee and the Expense Reimbursement.

6.5 **Approval.** The Debtors shall diligently prosecute the approval of the amendments and modifications to the Bidding Procedures included in the Notice of Stalking Horse Bid and the Break-Up Fee and Expense Reimbursement.

6.6 **Approval Order.**

(a) Prior to the Closing, and subject to the provisions of this Agreement, Purchaser and Debtor shall use their commercially reasonable efforts to obtain entry of an order or orders by the Bankruptcy Court pursuant to §§363 and 365 of the Bankruptcy Code (the "Approval Order"), in form and substance reasonably acceptable to the parties which shall approve this Agreement and the transactions described herein. and which shall contain the following provisions (it being understood that certain of such provisions may be contained in either the findings of fact or conclusions of law to be made by the Bankruptcy Court as part of the Approval Order):

(i) that each Debtor may sell, transfer and assign the applicable Acquired Assets and assume and assign the applicable Assigned Contracts to Purchaser pursuant to this Agreement and Bankruptcy Code §§105, 363 and 365, as applicable

(ii) the transfers of the Acquired Assets by each Debtor to Purchaser (A) vest or will vest Purchaser with all right, title and interest of such Debtor in and to the Acquired Assets, and to the fullest extent permitted by 11 U.S.C. § 363(f) and all other applicable laws free and clear of all Liens and claims (including, but not limited to, any "claims" as defined in 11 U.S.C. § 10 I (5)), reclamation claims, covenants; restrictions, hypothecations, charges, indentures, loan agreements, causes of action, instruments, contracts, leases, licenses, options, rights of first refusal, offsets, recoupment, rights of recovery, judgments, orders and decrees of any court or foreign or domestic governmental entity, claims for reimbursement, successor liability, contribution, indemnity or exoneration, assignment, preferences, debts, charges, suits, rights of recovery, interests, products liability, alter-ego, environmental, successor liability, tax and other liabilities, causes of action and claims, and in each case whether secured or unsecured, choate or inchoate, filed or untitled, scheduled or unscheduled, notice or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, or known or unknown whether arising prior to, on, or subsequent to the date on which Debtors filed their voluntary petitions under Chapter 11 of the Bankruptcy Code, whether imposed by agreement, understanding, law, equity or otherwise (collectively, "Claims") (other than Permitted Liens), with such Liens and Claims to attach only to the proceeds of sale with the same priority, validity, force and effect as they existed with respect to the Acquired Assets prior to Closing, and (B) constitute transfers for reasonably equivalent value and fair consideration under the Bankruptcy Code and the laws of the State of New Jersey;

(iii) the transactions contemplated by this Agreement are undertaken by Purchaser and Debtors at arm's length, without collusion and in good faith within the meaning of section 363(m) of the Bankruptcy Code, and such parties are entitled to the protections of section 363(m) of the Bankruptcy Code;

(iv) this Agreement was negotiated at arms-length;

(v) the sale of the Acquired Assets hereunder was conducted in a “non-collusive manner” within the meaning of Section 363(n) of the Bankruptcy Code;

(vi) a determination that selling the Acquired Assets free and clear of all Liens other than Permitted Liens is in the best interest of each Debtor’s Estate; and

(vii) that Purchaser shall not assume any of the Excluded Liabilities.

(b) If the Approval Order or any other orders of the Bankruptcy Court relating to this Agreement shall be appealed by any Person (or a petition for certiorari or motion for rehearing or reargument shall be filed with respect thereto), each party hereto agrees to use commercially reasonable efforts to obtain an expedited resolution of such appeal; provided, however, that nothing herein shall preclude the parties hereto from consummating the Transactions if the Approval Order shall have been entered and has not been stayed in which event Purchaser shall be able to assert the benefits of §363(m) of the Bankruptcy Code.

**6.7 Access to Facilities, Personnel, and Information.**

(a) Prior to the Closing, each Debtor shall permit representatives of Purchaser to have reasonable access during regular business hours and upon reasonable notice, and in a manner so as not to interfere with the normal business operations of such Debtor, to all premises, property, books, records (excluding Tax records), Contracts, and documents of or pertaining to the Business which are under such Debtor’s control (provided that any representatives of Purchaser shall be subject to the confidentiality obligations under the Confidentiality Agreement or otherwise agree in writing to be bound by the terms of such Confidentiality Agreement applicable to Purchaser thereunder).

(b) From the Closing Date through and including the first anniversary of the Closing Date, Purchaser shall grant each Seller, and their respective representatives reasonable access to the books and records transferred to Purchaser pursuant to this Agreement during regular business hours and upon reasonable notice for the purpose of allowing such Seller or its successor, or their respective representatives to perform the duties necessary for the liquidation of each Seller’s Estate. To the extent reasonably required by any Seller, Purchaser shall make one or more of the Transferred Employees available to such Seller to assist in such Seller’s wind-down of its Estate provided that such access does not unreasonably interfere with the conduct of the Business by Purchaser.

**6.8 Further Assurances.** Purchaser and each Debtor agree to take such further actions and execute such other documents as may be reasonably required to fulfill the conditions to Closing and, after Closing, to fully effect the transactions contemplated by this Agreement and the Ancillary Agreements and further secure to each party the rights intended to be conferred hereby and thereby.

**6.9 Tax Matters.**

(a) All Transfer Taxes incurred in connection with the purchase and sale of the Acquired Assets shall be borne equally by Debtors, on the one hand, and Purchaser, on the other hand, in each case when due. Debtors shall file, to the extent required by applicable Law,



all necessary Tax Returns and other documentation with respect to all such Transfer Taxes. To the extent required by applicable Law, Purchaser will join in the execution of any such Tax Returns or other documentation.

(b) Purchaser and Debtors agree that the Purchase Price and Assumed Liabilities (together with any other amounts treated as consideration for Income Tax purposes) (the "Tax Purchase Price") shall be allocated among the Acquired Assets in a manner that is in accordance with the allocation methodology set forth on Exhibit A hereto and Section 1060 of the Code and the Treasury Regulations promulgated thereunder (collectively, the "Allocation Methodology"). Purchaser and Debtors shall negotiate in good faith, on or prior to the Closing Date, an allocation of the Tax Purchase Price among the Acquired Assets in accordance with the Allocation Methodology. Purchaser and Debtors shall each file all Tax returns (and IRS Form 8594, if applicable) on the basis of such agreed upon allocation (the "Allocation Schedule"), and no party shall thereafter take a Tax return position inconsistent with such Allocation Schedule unless such inconsistent position shall arise out of or through an audit or other inquiry or examination by the Internal Revenue Service or other Governmental Body responsible for Taxes. Any adjustments to the Purchase Price pursuant to this Agreement shall be allocated in a manner consistent with the Allocation Schedule. Notwithstanding the allocation of the Tax Purchase Price in this Section 6.9(b), nothing in the foregoing shall be determinative of values ascribed to the Acquired Assets or the allocation of the value of the Acquired Assets in any proceeding in the Chapter 11 Case that may be proposed. Debtors reserve the right on their behalf and on behalf of Debtors' estates, to the extent not prohibited by applicable law and accounting rules, for purposes of any proceeding in connection with the Chapter 11 Case, to ascribe values to the Acquired Assets and to allocate the value of the Acquired Assets to Debtors in the event of, or in order to resolve, creditor disputes in the Chapter 11 Case.

(c) If requested by Purchaser, each Debtor shall notify all of the Taxing authorities in the jurisdictions that impose Taxes on such Debtor or where such Debtor has a duty to file Tax Returns in connection with the transactions contemplated by this Agreement in the form and manner required by such Taxing authorities, if the failure to make such notifications or receive any available tax clearance certificate (a "Tax Clearance Certificate") could subject Purchaser to any Taxes of Debtors. If any Taxing authority asserts that any Debtor is liable for any Tax, such Debtor shall promptly pay or in good faith contest any and all such amounts and shall provide evidence to Purchaser that such liabilities have been paid in full or otherwise satisfied or contested.

**6.10 Transaction-Related Documents.** In light of the fact that all Transaction-Related Documents are excluded assets, and notwithstanding any other provision hereof, each Seller and its designated representative shall have the right to cause the removal of any and all Transaction-Related Documents which may exist in any of the files of such Seller or on any of its computer systems. The parties hereto acknowledge that notwithstanding the foregoing, certain Transaction-Related Documents may inadvertently be or remain resident in the files or computer systems of a Seller following the Closing. Accordingly, Purchaser covenants and agrees that it shall not seek to access, review or copy any of such Transaction-Related Documents which may remain in any of the files of a Seller or on any of its computer systems, including without limitation its back- up, business continuity or archive systems, at any time, and shall promptly delete or destroy any of such Transaction-Related Documents of which it may become aware. In addition, at the written

request of any Seller from time to time for so long as the Chapter 11 Case shall not have been discharged, Purchaser shall permit any Seller and its designated representatives reasonable access to Purchaser's facilities and systems, including without limitation its back-up, business continuity or archive systems, upon reasonable notice and during business hours, as necessary to access Transaction-Related Documents or other Excluded Assets for the limited purpose of removing or destroying any such Transaction-Related Documents or otherwise taking action necessary or appropriate in connection with the Chapter 11 Case, and shall cooperate with any Seller in connection therewith, and each Seller agrees to exercise such right in a manner reasonably designed to protect the confidentiality of Purchaser's information and to minimize interference with the operation of its business.

6.11 **Transition Services.** From the Closing until August 31, 2019, NEMF shall provide (and shall use best efforts to provide through September 30, 2019) to Purchaser (at no cost to Purchaser) access to its NEMIS/AS400 Server to facilitate the transition and integration of the Business after the Closing. During this period, Purchaser (and its representatives) shall be afforded access to NEMF's facility for the purpose of copying and/or downloading applicable files of the Business that will facilitate the migration to Purchaser's own server.

## **ARTICLE VII EMPLOYEES**

7.1 **Employee Matters.** Purchaser may offer employment to the Employees of Sellers, as selected by Purchaser (as applicable, "Transferred Employees"), on such terms and conditions as may be acceptable to the Employees and Purchaser in its sole discretion and need not bear any relationship to terms and provisions applicable to their employment by Sellers; provided, however, Purchaser shall (i) make a sufficient number of employment offers on such terms and conditions as necessary to ensure that the termination by Sellers of Sellers' Employees as of the Closing Date will not trigger obligations, if any, under the WARN Act or (ii) pay all obligations and expenses pursuant to the WARN Act, if any.

7.2 **COBRA and Benefits Coverage.** Effective on the Closing Date, the group health plans maintained by NEMF in which the Employees of Sellers are participants will be terminated. Purchaser will be responsible for providing continued medical coverage pursuant to its group health plans under Part 6, Title I of ERISA and Section 4980B of the Code ("COBRA Continuation Coverage"), for each Employee of Sellers not hired by Purchaser and for each "M&A qualified beneficiary" (within the meaning of Treasury Regulation §54.4980B-9 Q&A-4) applicable to the Acquired Assets. As soon as practicable prior to the Closing, Sellers will provide to Purchaser a list of all M&A qualified beneficiaries who are receiving or eligible to elect COBRA Continuation Coverage on the Closing Date, and Purchaser will issue to them all COBRA Continuation Coverage notices.

7.3 **No Third-Party Beneficiaries.** Sellers and Purchaser acknowledge and agree that all provisions contained in this Article VII, with respect to current or former Employees are included for the sole benefit of Sellers and Purchaser, and that nothing herein, whether express or implied, shall create any third-party beneficiary or other rights (i) in any other Person, including, without limitation, any current or former employees, directors, officers or consultants of Sellers,

any participant in any Employee Benefit Plan, or any dependent or beneficiary thereof, or (ii) to continued employment with Purchaser.

## ARTICLE VIII TERMINATION; EFFECT OF TERMINATION

8.1 **Termination.** This Agreement may, by notice given prior to or at the Closing, be terminated:

- (a) by mutual consent of Purchaser and Debtors;
- (b) by Debtors or Purchaser in the event the Closing has not occurred (other than through failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before July 31, 2019;
- (c) by Debtors if, incident to the Bid Procedures Order, Debtors accept and closes on a competing bid for the purchase of all or part of the Acquired Assets;
- (d) by Purchaser if (i) any Debtor shall file a motion to sell all or part of the Acquired Assets to a third party other than Purchaser and shall thereafter consummate such sale, or (ii) any Debtor's Chapter 11 Case is converted to one under Chapter 7 of the Bankruptcy Code; or
- (e) by the non-breaching party upon a material breach of any provision of this Agreement, provided that such breach has not been waived by the non-breaching party and has continued after notice to the breaching party by the non-breaching party without cure for a period of five (5) Business Days (provided that the non-breaching party shall have an immediate right to terminate if the breaching party has willfully breached any provision of this Agreement which breach is not cured).

8.2 **Effect of Termination.** If this Agreement is terminated pursuant to Section 8.1(a), by Debtors pursuant to Section 8.1(c) or if Debtors elect not to sell the Acquired Assets to Purchaser in Purchaser's capacity as Back-up Bidder (as defined in the Bidding Procedures), by either party pursuant to Section 8.1(b), or by Purchaser pursuant to Section 8.1(b), (d) or (e), Purchaser shall have no Liability or obligations under this Agreement and the Deposit shall be returned to Purchaser. If this Agreement is terminated by Debtors pursuant to Section 8.1(e), Purchaser shall forfeit the Deposit, and, in addition, Debtors may exercise whatever remedies may be available to them in equity or at law. In no event shall any termination of this Agreement relieve any party hereto of any Liability for any willful breach of this Agreement by such party. If Debtors receive the Deposit, such receipt shall constitute liquidated damages, which the parties agree is fair and reasonable and shall not be deemed a penalty, and Purchaser and its Affiliates shall be released from any further Liability under this Agreement.

## ARTICLE IX GENERAL PROVISIONS

9.1 **"As Is", "Where Is", and "With all Faults" Transaction.** PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN

ARTICLE IV, DEBTORS MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE ACQUIRED ASSETS, INCLUDING (A) FINANCIAL PROJECTIONS, REVENUES, PROFITS OR INCOME TO BE DERIVED OR COSTS OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE ACQUIRED ASSETS, (B) THE PHYSICAL CONDITION OF ANY ACQUIRED ASSETS, (C) THE ENVIRONMENTAL CONDITION OR OTHER MATTERS RELATING TO THE PHYSICAL CONDITION OF THE REAL PROPERTY OCCUPIED BY SELLERS, (D) THE ZONING OF THE REAL PROPERTY OCCUPIED BY SELLERS, (E) THE VALUE OF THE ACQUIRED ASSETS OR ANY PORTION THEREOF, (F) THE TRANSFERABILITY OF THE ACQUIRED ASSETS, (G) THE TERMS, AMOUNT, VALIDITY OR ENFORCEABILITY OF ANY ASSUMED LIABILITIES, (H) TITLE TO ANY OF THE ACQUIRED ASSETS OR ANY PORTION THEREOF, (I) THE MERCHANTABILITY OR FITNESS OF THE ACQUIRED ASSETS OR ANY PORTION THEREOF FOR ANY PARTICULAR PURPOSE, OR (J) ANY OTHER MATTER OR THING RELATING TO THE ACQUIRED ASSETS OR ANY PORTION THEREOF. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF ALL ACQUIRED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE ACQUIRED ASSETS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE ACQUIRED ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION IV, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION IV, PURCHASER WILL ACCEPT THE ACQUIRED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

9.2 **Transaction Expenses.** Except as expressly provided for herein, each party shall pay all fees, costs and expenses incurred by it with respect to this Agreement, whether or not the transactions contemplated by this Agreement are consummated.

9.3 **Certain Interpretive Matters and Definitions.** Unless the context requires, (a) references to the plural include the singular and references to the singular include the plural, (b) references to any gender includes the other gender, (c) the words "include," "includes" and "including" do not limit the preceding terms or words and shall be deemed to be followed by the words "without limitation", (d) the terms "hereof", "herein", "hereunder", "hereto" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and (e) all references to Sections, Articles, or Schedules are to Sections, Articles, Exhibits or Schedules of or to this Agreement.

9.4 **Termination of Representations and Warranties.** The representations and warranties of the parties set forth in this Agreement shall terminate and be of no further force or effect after the Closing.

9.5 **Amendment.** This Agreement may be amended or modified in whole or in part at any time by an agreement in writing among the parties.

9.6 **Waiver**. The waiver by a party of a breach of any covenant, agreement, condition or undertaking contained herein shall be made only by a written waiver in each case. No waiver of any breach of any covenant, agreement, condition or undertaking contained herein shall operate as a waiver of any prior or subsequent breach of the same covenant, agreement, condition or undertaking or as a waiver of any breach of any other covenant, agreement, condition or undertaking.

9.7 **Notices**. All notices, requests and other communications hereunder will be deemed to have been duly given if delivered personally, by an established overnight delivery company, or by certified or registered mail, postage prepaid, return receipt requested, as follows:

(a) If to any Debtor: Phoenix Management Services  
110 Commons Court  
Chadds Ford, PA 19317  
Attn: Vincent J. Colistra

with a copy to: Gibbons P.C  
One Gateway Center  
Newark, New Jersey 07102  
Attn: Lawrence A. Goldman, Esq.

(b) If to Purchaser: Estes Express Lines  
3901 West Broad Street  
Richmond, VA 23230  
Attn: Bobby Speight

with a copy to: McGuireWoods LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, Virginia 23219  
Attn: Bryce D. Jewett III

or to such other address as may hereafter be designated by a party by the giving of notice in accordance with this Section 9.7. All notices, requests or other communications shall be deemed given when actually delivered if delivered personally or by an established overnight delivery company or upon actual receipt if delivered by certified or registered mail, postage prepaid, return receipt requested.

9.8 **Jurisdiction**. The parties agree that the Bankruptcy Court shall retain exclusive jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement or the implementation or breach hereof.

9.9 **Governing Law**. To the extent not governed by the Bankruptcy Code, this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, without giving effect to rules governing the conflict of laws.

9.10 **Damages.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NO PARTY SHALL BE LIABLE FOR INCIDENTAL, EXEMPLARY, SPECIAL, INDIRECT OR PUNITIVE DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

9.11 **Time is of the Essence.** Time is of the essence in this Agreement, and all of the terms, covenants and conditions hereof.

9.12 **Severability.** If any provision of this Agreement shall be held invalid, illegal or unenforceable, in whole or in part, the validity, legality, and enforceability of the remaining part of such provision, and the validity, legality and enforceability of all other provisions hereof or thereof, shall not be affected thereby.

9.13 **Titles and Headings.** Titles and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

9.14 **Assignment; Successors and Assigns.** This Agreement and the rights, duties and obligations hereunder may not be assigned by any party without the prior written consent of the other parties, and any attempted assignment without consent shall be void. Subject to this Section 9.14, this Agreement and the provisions hereof shall be binding upon each of the parties, their successors and permitted assigns.

9.15 **No Third-Party Rights.** The parties do not intend to confer any benefit hereunder on any Person other than the parties hereto.

9.16 **Confidentiality Agreement.** The parties acknowledge that the Confidentiality Agreement between Purchaser and Sellers (the "Confidentiality Agreement") shall remain in full force and effect during the term specified therein.

9.17 **Entire Agreement.** This Agreement, the Ancillary Agreements and the Confidentiality Agreement constitute the entire agreement between the parties regarding the subject matter hereof and no extrinsic evidence whatsoever may be introduced in any proceeding involving this Agreement, the Ancillary Agreements or the Confidentiality Agreement.

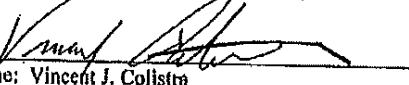
9.18 **Execution of this Agreement.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by electronic transmission shall be deemed to be their original signatures for all purposes.

*(Signatures appear on following page)*


IN WITNESS WHEREOF, the parties have caused their duly authorized officers to execute this Agreement as of the day and year first written above.

**SELLERS:**

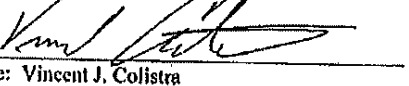
**EASTERN FREIGHT WAYS, INC.,**  
Debtor in Possession, a New Jersey corporation

By:   
Name: Vincent J. Colistra  
Title: Chief Restructuring Officer

**CARRIER INDUSTRIES, INC.,**  
Debtor in Possession, a New Jersey corporation

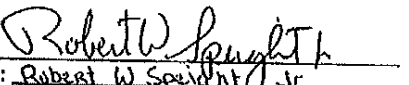
By:   
Name: Vincent J. Colistra  
Title: Chief Restructuring Officer

**NEW ENGLAND MOTOR FREIGHT, INC.,**  
Debtor in Possession, a New Jersey corporation

By:   
Name: Vincent J. Colistra  
Title: Chief Restructuring Officer

**PURCHASER:**

**ESTES EXPRESS LINES**  
a Virginia corporation

By:   
Name: Robert W. Spright Jr.  
Title: Corporate Vice President, Estes Level 2

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

**SCHEDULE 2.1(a)**

**NEMF's Rolling Stock**

Type of Equipment	Unit Number	Description	VIN #	YEAR	MAKE	MODEL
Vans	S93583	53 LINE HAUL TRAILER	3H3V532C9GT042019	2016	HYUNDAI	53 VAN
Vans	531024	53 LINE HAUL TRAILER	3H3V532C0GT701007	2016	HYUNDAI	53 VAN
Vans	S93550	53FT TRAILER	1GRAP0629DD444765	2013	GREAT DANE	CPL 215053
Vans	S93553	53FT TRAILER	1GRAP0624DD444768	2013	GREAT DANE	CPL 215053
Vans	S93554	53FT TRAILER	1GRAP0626DD444769	2013	GREAT DANE	CPL 215053
Vans	S93555	53FT TRAILER	1GRAP0622DD444770	2013	GREAT DANE	CPL 215053
Vans	S93557	53FT TRAILER	1GRAP0626DD444772	2013	GREAT DANE	CPL 215053
Vans	S93560	53FT TRAILER	1GRAP0621DD444775	2013	GREAT DANE	CPL 215053
Vans	S93563	53FT TRAILER	1GRAP0627DD444778	2013	GREAT DANE	CPL 215053
Vans	S93564	53FT TRAILER	1GRAP0629DD444779	2013	GREAT DANE	CPL 215053
Vans	S93569	53FT TRAILER	1GRAP0622DD444784	2013	GREAT DANE	CPL 215053
Vans	S93570	53FT TRAILER	1GRAP0624DD444785	2013	GREAT DANE	CPL 215053
Vans	53770	53FT TRAILER	1GRAP0626DD444836	2013	GREAT DANE	CPL 22053
Vans	53829	53FT TRAILER	1GRAP0620FD455947	2015	GREAT DANE	CCC 02053
Vans	53857	53FT TRAILER	1GRAP0621FD455875	2015	GREAT DANE	CCC 02053
Vans	K99264	TRAILER/KAPTIVE	1GRAA062X4D405796	2004	GREAT DANE	VAN
Vans	K97234	TRAILER/KAPTIVE	1JJV532W37L029437	2007	WABASH	VAN
Vans	K97269	TRAILER/KAPTIVE	1JJV532W57L029472	2007	WABASH	VAN
Vans	K97304	TRAILER KAPTIVE BEAM	1JJV532W68L122549	2008	WABASH	VAN
Vans	531261	53 LINE HAUL TRAILER	1GRAP0629JD123398	2018	GREAT DANE	53 VAN
Vans	531262	53 LINE HAUL TRAILER	1GRAP0620JD123399	2018	GREAT DANE	53 VAN
Vans	531263	53 LINE HAUL TRAILER	1GRAP0623JD123400	2018	GREAT DANE	53 VAN
Flatbed	F81517	TRAILER / FLATBED	1GRDM9629FH724983	2015	GREAT DANE	FLATBED
Flatbed	F81518	TRAILER / FLATBED	1GRDM9620FH724984	2015	GREAT DANE	FLATBED
Flatbed	F81519	TRAILER / FLATBED	1GRDM9622FH724985	2015	GREAT DANE	FLATBED
Flatbed	F81520	TRAILER / FLATBED	1GRDM9624FH724986	2015	GREAT DANE	FLATBED
Flatbed	F81521	TRAILER / FLATBED	1GRDM9626FH724987	2015	GREAT DANE	FLATBED



Flatbed	F81522	TRAILER / FLATBED	1GRDM9628FH724988	2015	GREAT DANE	FLATBED
Flatbed	F81523	TRAILER / FLATBED	1GRDM9629FH724997	2015	GREAT DANE	FLATBED
Flatbed	F81524	TRAILER / FLATBED	1GRDM9620FH724998	2015	GREAT DANE	FLATBED
Flatbed	F81525	TRAILER / FLATBED	1GRDM9622FH724999	2015	GREAT DANE	FLATBED
Flatbed	F81526	TRAILER / FLATBED	1GRDM9628FH725008	2015	GREAT DANE	FLATBED
Flatbed	F81527	TRAILER / FLATBED	1GRDM962XFH725009	2015	GREAT DANE	FLATBED
Flatbed	F81528	TRAILER / FLATBED	1GRDM9626FH725010	2015	GREAT DANE	FLATBED
Vans	531075	53FT TRAILER	1GRAP0624HD467960	2017	GREAT DANE	CCC 02053
Vans	531166	53 LINE HAUL TRAILER	3H3V532C5HT448008	2017	HYUNDAI	53 VAN
Vans	531150	53 LINE HAUL TRAILER	1GRAP0628JT111488	2018	GREAT DANE	53 VAN
Vans	531217	53 LINE HAUL TRAILER	1GRAP0620JD123354	2018	GREAT DANE	53 VAN
Vans	531250	53 LINE HAUL TRAILER	1GRAP0624JD123387	2018	GREAT DANE	53 VAN
Flatbed	F81402	TRAILER/FLATBED	1GRDM9621EH722062	2014	GREAT DANE	FLATBED
Flatbed	F81403	TRAILER/FLATBED	1GRDM9623EH722063	2014	GREAT DANE	FLATBED
Flatbed	F81404	TRAILER/FLATBED	1GRDM9625EH722064	2014	GREAT DANE	FLATBED
Flatbed	F81405	TRAILER/FLATBED	1GRDM9627EH722065	2014	GREAT DANE	FLATBED
Flatbed	F81406	TRAILER/FLATBED	1GRDM9629EH722066	2014	GREAT DANE	FLATBED
Flatbed	F81407	TRAILER/FLATBED	1GRDM9620EH722067	2014	GREAT DANE	FLATBED
Flatbed	F81408	TRAILER/FLATBED	1GRDM9622EH722068	2014	GREAT DANE	FLATBED
Flatbed	F81409	TRAILER FLATBED	1GRDM9625EH722078	2014	GREAT DANE	FLATBED
Flatbed	F81401	TRAILER/FLATBED	1GRDM962XEH722061	2014	GREAT DANE	FLATBED
Vans	53815	53FT TRAILER	1GRAP0620FD455933	2015	GREAT DANE	CCC02053
Vans	53924	53 LINE HAUL TRAILER	3H3V532C8FT580029	2015	HYUNDAI	53 VAN
Tractor	82036	TRACTOR CARRIER	1M1AA09Y51W022973	2001	MACK	CH612
Tractor	82063	TRACTOR CARRIER	1M1AA09Y21W023000	2001	MACK	CH612
Tractor	82083	TRACTOR CARRIER	1M1AA09Y81W023020	2001	MACK	CH612
Tractor	82096	TRACTOR CARRIER	1M1AA09Y61W023033	2001	MACK	CH612
Tractor	82101	TRACTOR CARRIER	1M1AA09Y51W023038	2001	MACK	CH612
Tractor	82103	TRACTOR CARRIER	1M1AA09Y31W023040	2001	MACK	CH612
Tractor	82112	TRACTOR CARRIER	1M1AA09YX1W023049	2001	MACK	CH612
Tractor	82118	TRACTOR CARRIER	1M1AA09Y51W023055	2001	MACK	CH612
Tractor	92011	TRACTOR CARRIER	1M1AA14Y51W140017	2001	MACK	CH613

Tractor	92016	TRACTOR CARRIER	1M1AA14Y91W140022	2001	MACK	CH613
Vans	93051	TRAILER	1S12S9535VD416808	1997	STRICK	VAN
Vans	93135	TRAILER	1S12S9539VD416892	1997	STRICK	VAN
Vans	98112	TRAILER	1S12E9538WD423504	1998	STRICK	VAN
Vans	98175	TRAILER	1S12E953XWD423567	1998	STRICK	VAN
Vans	98181	TRAILER	1S12E9535WD423573	1998	STRICK	VAN
Vans	98196	TRAILER	1S12E9537WD423588	1998	STRICK	VAN
Vans	98198	TRAILER	1S12E9535WD423590	1998	STRICK	VAN
Vans	A93416	TRAILER	11JV532W0WL451826	1998	WABASH	VAN
Vans	A93423	TRAILER	1JJV532W9WL492889	1998	WABASH	VAN
Vans	A93403	TRAILER	1DW1A5327XS253028	1999	STOUGHTON	VAN
Vans	A93415	TRAILER	1DW1A5328XS241986	1999	STOUGHTON	VAN
Vans	98211	TRAILER	1S12E9535XD435594	1999	STRICK	VAN
Vans	98221	TRAILER	1S12E9534XD435604	1999	STRICK	VAN
Vans	53253	TRAILER	1JJV532F5YF638304	2000	FRUE	VAN
Vans	53364	TRAILER	1JJV532F3YF638415	2000	FRUE	VAN
Vans	K99509	TRAILER/KAPTIVE	1S12E9531YD454046	2000	STRICK	VAN
Vans	53499	TRAILER	1S12S8539YD465850	2000	STRICK	VAN
Vans	93200	TRAILER	1JJV532W8YL663053	2000	WABASH	VAN
Vans	93205	TRAILER	1JJV532W7YL663058	2000	WABASH	VAN
Vans	93210	TRAILER	1JJV532W0YL663063	2000	WABASH	VAN
Vans	93211	TRAILER	1JJV532W2YL663064	2000	WABASH	VAN
Vans	93218	TRAILER	1JJV532WXYL663071	2000	WABASH	VAN
Vans	93224	TRAILER	1JJV532W0YL663077	2000	WABASH	VAN
Vans	93229	TRAILER	1JJV532W4YL663082	2000	WABASH	VAN
Vans	93239	TRAILER	1JJV532W7YL663092	2000	WABASH	VAN
Vans	93245	TRAILER	1JJV532W8YL663098	2000	WABASH	VAN
Vans	93255	TRAILER	1JJV532W7YL663108	2000	WABASH	VAN
Vans	93256	TRAILER	1JJV532W9YL663109	2000	WABASH	VAN
Vans	93266	TRAILER	1JJV532W1YL663119	2000	WABASH	VAN
Vans	93267	TRAILER	1JJV532W8YL663120	2000	WABASH	VAN
Vans	93268	TRAILER	1JJV532WXYL663121	2000	WABASH	VAN
Vans	93272	TRAILER	1JJV532W7YL663125	2000	WABASH	VAN
Vans	93279	TRAILER	1JJV532W4YL663132	2000	WABASH	VAN
Vans	93280	TRAILER	1JJV532W6YL663133	2000	WABASH	VAN
Vans	93286	TRAILER	1JJV532W7YL663139	2000	WABASH	VAN
Vans	93305	TRAILER	1VVS53281F014291	2001	VANCO	VAN
Vans	93307	TRAILER	1VVS53211F014293	2001	VANCO	VAN
Vans	93308	TRAILER	1VVS53231F014294	2001	VANCO	VAN
Vans	93311	TRAILER	1VVS53291F014297	2001	VANCO	VAN
Vans	53561	TRAILER	1S12S85322D474090	2002	STRICK	VAN

Vans	53570	TRAILER	1GRAA06243D401449	2003	GREAT DANE	VAN
Vans	53592	TRAILER	1GRAA06283D401471	2003	GREAT DANE	VAN
Vans	K98268	TRAILER/KAPTIVE	1VVS53263F015073	2003	VANCO	VAN
Vans	K99195	TRAILER/KAPTIVE	1VVS53274F015555	2004	VANCO	VAN
Vans	A93427	TRAILER-EFW	1S12E95376E511910	2006	STRICK	VAN
Vans	A93429	TRAILER-EFW	1S12E95306E511912	2006	STRICK	VAN
Vans	A93440	TRAILER EFW	1S12E95356E511923	2006	STRICK	VAN
Vans	A93443	TRAILER-EFW	1S12E95306E511926	2006	STRICK	VAN
Vans	A93502	TRAILER	1S12E95366E511835	2006	STRICK	VAN
Vans	A93504	TRAILER	1S12E95316E511837	2006	STRICK	VAN
Vans	93350	TRAILER	1VVS53276F016305	2006	VANCO	VAN
Vans	93363	TRAILER	1VVS53256F016318	2006	VANCO	VAN
Vans	93381	TRAILER	1VVS53276F016336	2006	VANCO	VAN
Vans	93388	TRAILER	1VVS53246F016343	2006	VANCO	VAN
Vans	K97472	TRAILER/KAPTIVE	1JJV532W18L122717	2008	WABASH	VAN
Flatbed	F90201	TRAILER/FLATBED	1GRDM98233M007138	2003	GREAT DANE	FLATBED
Flatbed	F90301	TRAILER/FLATBED	1GRDM98283M007121	2003	GREAT DANE	FLATBED
Flatbed	F90302	TRAILER/FLATBED	1GRDM98263M007134	2003	GREAT DANE	FLATBED
Flatbed	F90303	TRAILER/FLATBED	1GRDM98233M007124	2003	GREAT DANE	FLATBED
Flatbed	F90304	TRAILER/FLATBED	1GRDM98203M007128	2003	GREAT DANE	FLATBED
Flatbed	F90305	TRAILER/FLATBED	1GRDM98263M007148	2003	GREAT DANE	FLATBED
Flatbed	F90401	TRAILER/FLATBED	1GRDN98224M700400	2004	GREAT DANE	FLATBED
Flatbed	F90402	TRAILER/FLATBED	1GRDM98214M700405	2004	GREAT DANE	FLATBED
Flatbed	F90405	TRAILER/FLATBED	1GRDM98204M700430	2004	GREAT DANE	FLATBED
Flatbed	F90409	TRAILER/FLATBED	1GRDM98224M700414	2004	GREAT DANE	FLATBED
Flatbed	F90501	TRAILER/FLAT BED	1GRDM02265M701460	2005	GREAT DANE	FLATBED
Flatbed	F90502	TRAILER/FLAT BED	1GRDM02215M701463	2005	GREAT DANE	FLATBED
Flatbed	F90503	TRAILER/FLAT BED	1GRDM02575M701466	2005	GREAT DANE	FLATBED
Flatbed	F90504	TRAILER/FLAT BED	1GRDM02295M701467	2005	GREAT DANE	FLATBED
Flatbed	F90505	TRAILER/FLAT BED	1GRDM02205M701468	2005	GREAT DANE	FLATBED
Flatbed	F90506	TRAILER/FLAT BED	1GRDM02205M701471	2005	GREAT DANE	FLATBED
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Flatbed	F90512	TRAILER/FLAT BED	1GRDM02275M701483	2005	GREAT DANE	FLATBED
Flatbed	F90513	TRAILER/FLAT BED	1GRDM02295M701484	2005	GREAT DANE	FLATBED
Flatbed	F90514	TRAILER/FLAT BED	1GRDM02205M701485	2005	GREAT DANE	FLATBED
Flatbed	F90515	TRAILER/FLAT BED	1GRDM02265M701488	2005	GREAT DANE	FLATBED
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Flatbed	F90517	TRAILER/FLAT BED	1GRDN02215M701494	2005	GREAT DANE	FLATBED
Flatbed	F90518	TRAILER/FLAT BED	1GRDM02275M701497	2005	GREAT DANE	FLATBED
Flatbed	F90519	TRAILER/FLAT BED	1GRDM02205M701499	2005	GREAT DANE	FLATBED
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Flatbed	F90521	TRAILER/FLAT BED	1GRDM02235M701500	2005	GREAT DANE	FLATBED
Flatbed	F90522	FLAT BED TRAILER	1GRDM02275M701502	2005	GREAT DANE	FLATBED
Flatbed	F90523	TRAILER/FLAT BED	1GRDM02245M701506	2005	GREAT DANE	FLATBED
Flatbed	F90524	TRAILER/FLAT BED	1GRDM022X5M701459	2005	GREAT DANE	FLATBED
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Flatbed	F90527	TRAILER/FLAT BED	1GRDM02225M701469	2005	GREAT DANE	FLATBED
Flatbed	F90528	TRAILER/FLAT BED	1GRDM02295M701470	2005	GREAT DANE	FLATBED
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Flatbed	F90530	TRAILER/FLAT BED	1GRDM02255M701479	2005	GREAT DANE	FLATBED
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Flatbed	F80602	TRAILER/FLAT BED	1TTF4820662016635	2006	TRANSCRAFT	FLATBED
Flatbed	F80603	TRAILER/FLAT BED	1TTF4820862016636	2006	TRANSCRAFT	FLATBED
Flatbed	F80604	TRAILER/FLAT BED	1TTF4820162016638	2006	TRANSCRAFT	FLATBED
Flatbed	F80605	TRAILER/FLAT BED	1TTF4820X62016637	2006	TRANSCRAFT	FLATBED
Flatbed	F80606	TRAILER/FLAT BED	1TTF4820X62016640	2006	TRANSCRAFT	FLATBED
Flatbed	F90701	49 FLATBED	1GRDM98267H704754	2007	GREAT DANE	FLATBED
Flatbed	F90702	49 FLATBED	1GRDM98287H704755	2007	GREAT DANE	FLATBED
Flatbed	F90801	49 FLATBED	1GRDM98208H710065	2008	GREAT DANE	FLATBED
Flatbed	F90802	49 FLATBED	1GRDM98288H710069	2008	GREAT DANE	FLATBED
Flatbed	F90803	49 FLATBED	1GRDN982X8H710073	2008	GREAT DANE	FLATBED
Flatbed	F90804	49 FLATBED	1GRDN98208H710079	2008	GREAT DANE	FLATBED
Flatbed	F90805	49 FLATBED	1GRDM982X8H710087	2008	GREAT DANE	FLATBED
Flatbed	F90806	49 FLATBED	1GRDM98238H710089	2008	GREAT DANE	FLATBED
Flatbed	F90807	49 FLATBED	1GRDM982X8H710090	2008	GREAT DANE	FLATBED
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Flatbed	F90809	49 FLATBED	1GRDM98298H710095	2008	GREAT DANE	FLATBED
Flatbed	F90810	49 FLATBED	1GRDM98208H710096	2008	GREAT DANE	FLATBED
Flatbed	F90811	49 FLATBED	1GRDN98268H710099	2008	GREAT DANE	FLATBED
Flatbed	F90812	49 FLATBED	1GRDM98298H710100	2008	GREAT DANE	FLATBED
Flatbed	F90813	49 FLATBED	1GRDM982X8H710106	2008	GREAT DANE	FLATBED
Flatbed	F90814	49 FLATBED	1GRDM98218H710057	2008	GREAT DANE	FLATBED

Flatbed	F90815	49 FLATBED	1GRDM98218H710060	2008	GREAT DANE	FLATBED
Flatbed	F90816	49 FLATBED	1GRDM98238H710061	2008	GREAT DANE	FLATBED
Flatbed	F90817	49 FLATBED	1GRDM98258H710062	2008	GREAT DANE	FLATBED
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Flatbed	F90821	49 FLATBED	1GRDM98248H710067	2008	GREAT DANE	FLATBED
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Flatbed	F90823	49 FLATBED	1GRDM98238H710075	2008	GREAT DANE	FLATBED
Flatbed	F90824	49 FLATBED	1GRDM98258H710076	2008	GREAT DANE	FLATBED
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Flatbed	F90829	49 FLATBED	1GRDM98218H710088	2008	GREAT DANE	FLATBED
Flatbed	F90830	49 FLATBED	1GRDM98238H710092	2008	GREAT DANE	FLATBED
Flatbed	F90831	49 FLATBED	1GRDM98278H710094	2008	GREAT DANE	FLATBED
Flatbed	F90832	49 FLATBED	1GRDM98228H710097	2008	GREAT DANE	FLATBED
Flatbed	F90833	49 FLATBED	1GRDM98228H710102	2008	GREAT DANE	FLATBED
Flatbed	F90834	49 FLATBED	1GRDM98248H710103	2008	GREAT DANE	FLATBED
Flatbed	F90835	49 FLATBED	1GRDM98268H710104	2008	GREAT DANE	FLATBED
Flatbed	F90836	49 FLATBED	1GRDM98288H710105	2008	GREAT DANE	FLATBED
Flatbed	F90837	49 FLATBED	1GRDM98238H710058	2008	GREAT DANE	FLATBED
Flatbed	F90838	49 FLATBED	1GRDM98258H710059	2008	GREAT DANE	FLATBED
Flatbed	F90839	49 FLATBED	1GRDM98268H710068	2008	GREAT DANE	FLATBED
Flatbed	F90840	49 FLATBED	1GRDM98248H710070	2008	GREAT DANE	FLATBED
Flatbed	F90841	49 FLATBED	1GRDM98268H710071	2008	GREAT DANE	FLATBED
Flatbed	F90842	49 FLATBED	1GRDM98218H710074	2008	GREAT DANE	FLATBED
Flatbed	F90843	49 FLATBED	1GRDM98278H710080	2008	GREAT DANE	FLATBED
Flatbed	F90844	49 FLATBED	1GRDM98298H710081	2008	GREAT DANE	FLATBED
Flatbed	F90845	49 FLATBED	1GRDM98228H710083	2008	GREAT DANE	FLATBED
Flatbed	F90846	49 FLATBED	1GRDM98288H710086	2008	GREAT DANE	FLATBED
Flatbed	F90847	49 FLATBED	1GRDM98218H710091	2008	GREAT DANE	FLATBED
Flatbed	F90848	49 FLATBED	1GRDM98248H710098	2008	GREAT DANE	FLATBED
Flatbed	F90849	49 FLATBED	1GRDM98208H710101	2008	GREAT DANE	FLATBED
Pups	28101	TRAILER	1S11S8286SG383026	1995	STRICK	PUP
Pups	28103	TRAILER	1S11S8280SG383040	1995	STRICK	PUP
Pups	28104	TRAILER	1S11S8287SG383049	1995	STRICK	PUP
Pups	28105	TRAILER	1S11S8286SG383074	1995	STRICK	PUP
Pups	28106	TRAILER	1S11S8282SG383105	1995	STRICK	PUP
Pups	28500	TRAILER	1JJV281W51F740795	2001	WABASH	PUP

Pups	28501	TRAILER	1JJV281W71F740796	2001	WABASH	PUP
Pups	28502	TRAILER	1JJV281W91F740797	2001	WABASH	PUP
Pups	28503	TRAILER	1JJV281W01F740798	2001	WABASH	PUP
Pups	28504	TRAILER	1JJV281W21F740799	2001	WABASH	PUP
Pups	28505	TRAILER	1JJV281W51F740800	2001	WABASH	PUP
Pups	28506	TRAILER	1JJV281W71F740801	2001	WABASH	PUP
Pups	28515	TRAILER	1JJV281W81F740810	2001	WABASH	PUP
Pups	28529	TRAILER	1JJV281W81F740824	2001	WABASH	PUP
Pups	28541	TRAILER	1JJV281W41F740836	2001	WABASH	PUP
Pups	28544	TRAILER	1JJV281WX1F740839	2001	WABASH	PUP
Pups	28556	TRAILER	1JJV281W01F740851	2001	WABASH	PUP
Pups	28578	TRAILER	1JJV281WX1F740873	2001	WABASH	PUP
Pups	28602	TRAILER	1JJV281W21F740897	2001	WABASH	PUP
Pups	28610	TRAILER	1JJV281W81F740905	2001	WABASH	PUP
Pups	28633	TRAILER	1JJV281W61F740918	2001	WABASH	PUP
Dolly	CI010	CONVERTER DOLLY	1JJD071W31F741214	2001	WABASH	CONVERTER
Dolly	CI019	CONVERTER DOLLY	1JJD071W41F741223	2001	WABASH	CONVERTER
Dolly	CI022	CONVERTER DOLLY	1JJD071WX1F741226	2001	WABASH	CONVERTER
Dolly	CI025	CONVERTER DOLLY	1JJD071W51F741229	2001	WABASH	CONVERTER
Dolly	CI051	CONVERTER DOLLY	1JJD071W61F741255	2001	WABASH	CONVERTER
Dolly	CI052	CONVERTER DOLLY	1JJD071W81F741256	2001	WABASH	CONVERTER
Dolly	CI053	CONVERTER DOLLY	1JJD071WX1F741257	2001	WABASH	CONVERTER
Dolly	CI054	CONVERTER DOLLY	1JJD071W11F741258	2001	WABASH	CONVERTER
Dolly	CI063	CONVERTER DOLLY	1JJD071W21F741267	2001	WABASH	CONVERTER
Vans	93028	TRAILER	1S12S953XTD400181	1996	STRICK	VAN

**SCHEDULE 2.1(b)(i)**

**Seller's Rolling Stock**

Type of Equipment	Unit Number	Description	VIN #	YEAR	MAKE	MODEL
Tractor	40115	EFW SLEEPER	1FUJGLD69FLGJ7609	2015	FRGHT	CASCADIA
Tractor	40215	EFW SLEEPER	1FUJGLD65FLGJ7610	2015	FRGHT	CASCADIA
Tractor	40315	EFW SLEEPER	1FUJGLD67FLGJ7611	2015	FRGHT	CASCADIA
Tractor	40415	EFW SLEEPER	1FUJGLD69FLGJ7612	2015	FRGHT	CASCADIA
Tractor	40515	EFW SLEEPER	1FUJGLD60FLGJ7613	2015	FRGHT	CASCADIA
Tractor	41117	EFW SLEEPER	1FUJGHDV4HLHL2156	2017	FRGHT	CASCADIA
Tractor	41217	EFW SLEEPER	1FUJGHDV6HLHL2157	2017	FRGHT	CASCADIA
Tractor	41317	EFW SLEEPER	1FUJGHDV8HLHL2158	2017	FRGHT	CASCADIA
Tractor	41416	TRACTOR EFW SLEEPER	4V4MC9EH7GN927753	2016	VOLVO	VNM64T630
Tractor	41417	EFW SLEEPER	1FUJGHDVXHLHL2159	2017	FRGHT	CASCADIA
Tractor	41516	TRACTOR EFW SLEEPER	4V4MC9EH9GN927754	2016	VOLVO	VNM64T630
Tractor	41517	EFW SLEEPER	1FUJGHDV6HLHL2160	2017	FRGHT	CASCADIA
Tractor	41616	TRACTOR EFW SLEEPER	4V4MC9EH0GN927755	2016	VOLVO	VNM64T630
Tractor	41617	EFW SLEEPER	1FUJGHDV8HLHL2161	2017	FRGHT	CASCADIA
Tractor	41716	TRACTOR EFW SLEEPER	4V4MC9EH2GN927756	2016	VOLVO	VNM64T630
Tractor	41717	EFW SLEEPER	1FUJGHDVXHLHL2162	2017	FRGHT	CASCADIA
Tractor	41816	TRACTOR EFW SLEEPER	4V4MC9EH4GN927757	2016	VOLVO	VNM64T630
Tractor	41817	EFW SLEEPER	1FUJGHDV1HLHL2163	2017	FRGHT	CASCADIA
Tractor	41916	TRACTOR EFW SLEEPER	4V4MC9EH6GN927758	2016	VOLVO	VNM64T630
Tractor	41917	EFW SLEEPER	1FUJGHDV3HLHL2164	2017	FRGHT	CASCADIA
Tractor	42016	TRACTOR EFW SLEEPER	4V4MC9EH8GN927759	2016	VOLVO	VNM64T630
Tractor	42017	EFW SLEEPER	1FUJGHDV5HLHL2165	2017	FRGHT	CASCADIA
Flatbed	F81529	TRAILER / FLATBED	1GRDM9626FH725296	2015	GREAT DANE	FLATBED
Flatbed	F81530	TRAILER / FLATBED	1GRDM9628FH725297	2015	GREAT DANE	FLATBED
Flatbed	F81531	TRAILER / FLATBED	1GRDM962XFH725298	2015	GREAT DANE	FLATBED
Flatbed	F81532	TRAILER / FLATBED	1GRDM9628FH725221	2015	GREAT DANE	FLATBED
Flatbed	F81533	TRAILER FLATBED	1GRDM962XFH725222	2015	GREAT DANE	FLATBED

Flatbed	F81534	TRAILER FLATBED	1GRDM9621FH725223	2015	GREAT DANE	FLATBED
Flatbed	F81535	TRAILER / FLATBED	13N148208F1570802	2015	FONTAINE	FLAT BED
Flatbed	F81536	TRAILER / FLATBED	13N14820XF1570803	2015	FONTAINE	FLAT BED
Flatbed	F81537	TRAILER / FLATBED	13N148201F1570804	2015	FONTAINE	FLAT BED
Flatbed	F81538	TRAILER / FLATBED	13N148203F1570805	2015	FONTAINE	FLAT BED
Flatbed	F81539	TRAILER / FLATBED	13N148205F1570806	2015	FONTAINE	FLAT BED
Flatbed	F81540	TRAILER / FLATBED	13N148207F1570807	2015	FONTAINE	FLAT BED
Flatbed	F81541	TRAILER / FLATBED	13N148209F1570808	2015	FONTAINE	FLAT BED
Flatbed	F81542	TRAILER / FLATBED	13N148200F1570809	2015	FONTAINE	FLAT BED
Flatbed	F81543	TRAILER / FLATBED	13N148207F1570810	2015	FONTAINE	FLAT BED
Flatbed	F81544	TRAILER / FLATBED	13N148209F1570811	2015	FONTAINE	FLAT BED
Flatbed	F81545	TRAILER / FLATBED	13N148200F1570812	2015	FONTAINE	FLAT BED
Flatbed	F81546	TRAILER / FLATBED	13N148204F1570814	2015	FONTAINE	FLAT BED
Flatbed	F81547	TRAILER / FLATBED	13N148206F1570815	2015	FONTAINE	FLAT BED
Flatbed	F81548	TRAILER / FLATBED	13N148208F1570816	2015	FONTAINE	FLAT BED
Flatbed	F81549	TRAILER / FLATBED	13N14820XF1570817	2015	FONTAINE	FLAT BED
Flatbed	F81550	TRAILER / FLATBED	13N148201F1570818	2015	FONTAINE	FLAT BED
Flatbed	F81551	TRAILER / FLATBED	13N148203F1570819	2015	FONTAINE	FLAT BED
Flatbed	F81552	TRAILER / FLATBED	13N14820XF1570820	2015	FONTAINE	FLAT BED
Flatbed	F81553	TRAILER / FLATBED	13N148201F1570821	2015	FONTAINE	FLAT BED
Flatbed	F81554	TRAILER / FLATBED	13N148203F1570822	2015	FONTAINE	FLAT BED
Flatbed	F81555	TRAILER / FLATBED	13N148205F1570823	2015	FONTAINE	FLAT BED
Flatbed	F81601	TRAILER/FLATBED	1GRDM9620GH729197	2016	GREAT DANE	FLATBED
Flatbed	F81602	TRAILER/FLATBED	1GRDM9622GH729198	2016	GREAT DANE	FLATBED
Flatbed	F81603	TRAILER/FLATBED	1GRDM9624GH729199	2016	GREAT DANE	FLATBED
Flatbed	F81604	TRAILER/FLATBED	1GRDM9627GH729200	2016	GREAT DANE	FLATBED
Flatbed	F81605	TRAILER/FLATBED	1GRDM9629GH729201	2016	GREAT DANE	FLATBED
Flatbed	F81606	TRAILER/FLATBED	1GRDM9620GH729202	2016	GREAT DANE	FLATBED
Flatbed	F81607	TRAILER/FLATBED	1GRDM9622GH729203	2016	GREAT DANE	FLATBED
Flatbed	F81608	TRAILER/FLATBED	1GRDM9624GH729204	2016	GREAT DANE	FLATBED
Flatbed	F81609	TRAILER/FLATBED	1GRDM9626GH729205	2016	GREAT DANE	FLATBED
Flatbed	F81610	TRAILER/FLATBED	1GRDM9628GH729206	2016	GREAT DANE	FLATBED



Flatbed	F81611	TRAILER/FLATBED	1GRDM962XGH729207	2016	GREAT DANE	FLATBED
Flatbed	F81612	TRAILER/FLATBED	1GRDM9621GH729208	2016	GREAT DANE	FLATBED
Flatbed	F81613	TRAILER/FLATBED	1GRDM9623GH729209	2016	GREAT DANE	FLATBED
Flatbed	F81614	TRAILER/FLATBED	1GRDM962XGH729210	2016	GREAT DANE	FLATBED
Flatbed	F81615	TRAILER/FLATBED	1GRDM9621GH729211	2016	GREAT DANE	FLATBED
Flatbed	F81616	TRAILER/FLATBED	1GRDM9623GH729212	2016	GREAT DANE	FLATBED
Flatbed	F81617	TRAILER/FLATBED	1GRDM9625GH729213	2016	GREAT DANE	FLATBED
Flatbed	F81618	TRAILER/FLATBED	1GRDM9627GH729214	2016	GREAT DANE	FLATBED
Flatbed	F81619	TRAILER/FLATBED	1GRDM9629GH729215	2016	GREAT DANE	FLATBED
Flatbed	F81620	TRAILER/FLATBED	1GRDM9620GH729216	2016	GREAT DANE	FLATBED
Flatbed	F81621	TRAILER/FLATBED	1GRDM9622GH729217	2016	GREAT DANE	FLATBED
Flatbed	F81622	TRAILER/FLATBED	1GRDM9624GH729218	2016	GREAT DANE	FLATBED
Flatbed	F81623	TRAILER/FLATBED	1GRDM9626GH729219	2016	GREAT DANE	FLATBED
Flatbed	F81624	TRAILER/FLATBED	1GRDM9622GH729220	2016	GREAT DANE	FLATBED
Flatbed	F81625	TRAILER/FLATBED	1GRDM9624GH729221	2016	GREAT DANE	FLATBED
Flatbed	F81626	TRAILER/FLATBED	1GRDM9626GH729222	2016	GREAT DANE	FLATBED
Flatbed	F81627	TRAILER/FLATBED	1GRDM9628GH729223	2016	GREAT DANE	FLATBED
Flatbed	F81628	TRAILER/FLATBED	1GRDM962XGH729224	2016	GREAT DANE	FLATBED
Flatbed	F81629	TRAILER/FLATBED	1GRDM9621GH729225	2016	GREAT DANE	FLATBED
Flatbed	F81630	TRAILER/FLATBED	1GRDM9623GH729226	2016	GREAT DANE	FLATBED
Flatbed	F81631	TRAILER/FLATBED	1GRDM9625GH729227	2016	GREAT DANE	FLATBED
Flatbed	F81632	TRAILER/FLATBED	1GRDM9627GH729228	2016	GREAT DANE	FLATBED
Flatbed	F81633	TRAILER/FLATBED	1GRDM9629GH729229	2016	GREAT DANE	FLATBED

Flatbed	F81634	TRAILER/FLATBED	1GRDM9625GH729230	2016	GREAT DANE	FLATBED
Flatbed	F81635	TRAILER/FLATBED	1GRDM9627GH729231	2016	GREAT DANE	FLATBED
Flatbed	F81636	TRAILER/FLATBED	1GRDM9629GH729232	2016	GREAT DANE	FLATBED
Flatbed	F81637	TRAILER/FLATBED	1GRDM9620GH729233	2016	GREAT DANE	FLATBED
Flatbed	F81638	TRAILER/FLATBED	1GRDM9622GH729234	2016	GREAT DANE	FLATBED
Flatbed	F81639	TRAILER/FLATBED	1GRDM9624GH729235	2016	GREAT DANE	FLATBED
Flatbed	F81640	TRAILER/FLATBED	1GRDM9626GH729236	2016	GREAT DANE	FLATBED
Flatbed	F81641	TRAILER/FLATBED	1GRDM9628GH729237	2016	GREAT DANE	FLATBED
Flatbed	F81642	TRAILER/FLATBED	1GRDM962XGH729238	2016	GREAT DANE	FLATBED
Flatbed	F81643	TRAILER/FLATBED	1GRDM9621GH729239	2016	GREAT DANE	FLATBED
Flatbed	F81644	TRAILER/FLATBED	1GRDM9628GH729240	2016	GREAT DANE	FLATBED
Flatbed	F81645	TRAILER/FLATBED	1GRDM962XGH729241	2016	GREAT DANE	FLATBED
Flatbed	F81646	TRAILER/FLATBED	1GRDM9621GH729242	2016	GREAT DANE	FLATBED
Flatbed	F81647	TRAILER/FLATBED	1GRDM9623GH729243	2016	GREAT DANE	FLATBED
Flatbed	F81648	TRAILER/FLATBED	1GRDM9625GH729244	2016	GREAT DANE	FLATBED
Flatbed	F81649	TRAILER/FLATBED	1GRDM9627GH729245	2016	GREAT DANE	FLATBED
Flatbed	F81650	TRAILER/FLATBED	1GRDM9629GH729246	2016	GREAT DANE	FLATBED
Flatbed	F81651	TRAILER/FLATBED	1GRDM9620GH729247	2016	GREAT DANE	FLATBED
Flatbed	F81652	TRAILER/FLATBED	1GRDM9622GH729248	2016	GREAT DANE	FLATBED
Flatbed	F81653	TRAILER/FLATBED	1GRDM9624GH729249	2016	GREAT DANE	FLATBED
Flatbed	F81654	TRAILER/FLATBED	1GRDM9620GH729250	2016	GREAT DANE	FLATBED
Flatbed	F81655	TRAILER/FLATBED	1GRDM9622GH729251	2016	GREAT DANE	FLATBED
Flatbed	F81656	TRAILER/FLATBED	1GRDM9624GH729252	2016	GREAT DANE	FLATBED

Flatbed	F81657	TRAILER/FLATBED	1GRDM9626GH729253	2016	GREAT DANE	FLATBED
Flatbed	F81658	TRAILER/FLATBED	1GRDM9628GH729254	2016	GREAT DANE	FLATBED
Flatbed	F81659	TRAILER/FLATBED	1GRDM962XGH729255	2016	GREAT DANE	FLATBED
Flatbed	F81660	TRAILER/FLATBED	1GRDM9621GH729256	2016	GREAT DANE	FLATBED
Flatbed	F81801	TRAILER FLATBED	1GRDM9629JH733353	2018	GREAT DANE	FLATBED
Flatbed	F81802	TRAILER FLATBED	1GRDM9620JH733354	2018	GREAT DANE	FLATBED
Flatbed	F81803	TRAILER FLATBED	1GRDM9622JH733355	2018	GREAT DANE	FLATBED
Flatbed	F81804	TRAILER FLATBED	1GRDM9624JH733356	2018	GREAT DANE	FLATBED
Flatbed	F81805	TRAILER FLATBED	1GRDM9626JH733357	2018	GREAT DANE	FLATBED
Flatbed	F81806	TRAILER FLATBED	1GRDM9623JH733364	2018	GREAT DANE	FLATBED
Flatbed	F81807	TRAILER FLATBED	1GRDM9625JH733365	2018	GREAT DANE	FLATBED
Flatbed	F81808	TRAILER FLATBED	1GRDM9627JH733366	2018	GREAT DANE	FLATBED
Flatbed	F81809	TRAILER FLATBED	1GRDM9629JH733367	2018	GREAT DANE	FLATBED
Tractor	40117	EFW SLEEPER	1FUJGHDV1HLHL2146	2017	FRGHT	CASCADIA
Tractor	40217	EFW SLEEPER	1FUJGHDV3HLHL2147	2017	FRGHT	CASCADIA
Tractor	40317	EFW SLEEPER	1FUJGHDV5HLHL2148	2017	FRGHT	CASCADIA
Tractor	40417	EFW SLEEPER	1FUJGHDV7HLHL2149	2017	FRGHT	CASCADIA
Tractor	40517	EFW SLEEPER	1FUJGHDV3HLHL2150	2017	FRGHT	CASCADIA
Tractor	40617	EFW SLEEPER	1FUJGHDV5HLHL2151	2017	FRGHT	CASCADIA
Tractor	40717	EFW SLEEPER	1FUJGHDV7HLHL2152	2017	FRGHT	CASCADIA
Tractor	40817	EFW SLEEPER	1FUJGHDV9HLHL2153	2017	FRGHT	CASCADIA
Tractor	40917	EFW SLEEPER	1FUJGHDV0HLHL2154	2017	FRGHT	CASCADIA
Tractor	41017	EFW SLEEPER	1FUJGHDV2HLHL2155	2017	FRGHT	CASCADIA
Tractor	40118	EFW SLEEPER	3AKJHPDV5JSJM9724	2018	FRGHT	CASCADIA
Tractor	41116	EFW SLEEPER	1FUJGLD69GLGV2023	2016	FRGHT	CASCADIA
Tractor	41216	EFW SLEEPER	1FUJGLD60GLGV2024	2016	FRGHT	CASCADIA
Tractor	41316	EFW SLEEPER	1FUJGLD62GLGV2025	2016	FRGHT	CASCADIA
Tractor	42117	EFW SLEEPER	1FUJGHDV7HLHL2166	2017	FRGHT	CASCADIA
Tractor	42217	EFW SLEEPER	1FUJGHDV9HLHL2167	2017	FRGHT	CASCADIA
Tractor	42317	EFW SLEEPER	1FUJGHDV0HLHL2168	2017	FRGHT	CASCADIA
Tractor	42417	EFW SLEEPER	1FUJGHDV2HLHL2169	2017	FRGHT	CASCADIA

Tractor	42517	EFW SLEEPER	1FUJGHDV9HLHL2170	2017	FRGHT	CASCADIA
Tractor	43916	EFW SLEEPER	1FUJGHDV7GLGR2007	2016	FRGHT	CASCADIA
Tractor	44016	EFW SLEEPER	1FUJGHDV9GLGR2008	2016	FRGHT	CASCADIA
Tractor	44116	EFW SLEEPER	1FUJGHDV0GLGR2009	2016	FRGHT	CASCADIA
Tractor	44316	EFW SLEEPER	1FUJGLBGXGLHP2604	2016	FRGHT	CASCADIA
Tractor	44516	EFW SLEEPER	1FUJGLBG1GLHP2605	2016	FRGHT	CASCADIA
Tractor	44616	EFW SLEEPER	1FUJGLBG5GLHP2607	2016	FRGHT	CASCADIA
Tractor	44916	EFW SLEEPER	1FUJGLBG6GLHP2602	2016	FRGHT	CASCADIA
Tractor	45616	EFW SLEEPER	1FUJGLBG7GLHP2608	2016	FRGHT	CASCADIA
Tractor	45716	EFW SLEEPER	1FUJGLBG8GLHP2603	2016	FRGHT	CASCADIA
Tractor	45816	EFW SLEEPER	1FUJGLBG3GLHP2606	2016	FRGHT	CASCADIA
Tractor	45916	EFW SLEEPER	1FUJGLBG9GLHP2609	2016	FRGHT	CASCADIA
Tractor	42116	TRACTOR EFW SLEEPER	4V4MC9EH4GN927760	2016	VOLVO	VNM64T630
Tractor	42216	TRACTOR EFW SLEEPER	4V4MC9EH6GN927761	2016	VOLVO	VNM64T630
Tractor	42316	TRACTOR EFW SLEEPER	4V4MC9EH8GN927762	2016	VOLVO	VNM64T630
Tractor	42416	TRACTOR EFW SLEEPER	4V4MC9EHXGN927763	2016	VOLVO	VNM64T630
Tractor	42516	TRACTOR EFW SLEEPER	4V4MC9EH1GN927764	2016	VOLVO	VNM64T630
Tractor	42616	TRACTOR EFW SLEEPER	4V4MC9EH3GN927765	2016	VOLVO	VNM64T630
Tractor	42716	TRACTOR EFW SLEEPER	4V4MC9EH5GN927766	2016	VOLVO	VNM64T630
Tractor	42816	TRACTOR EFW SLEEPER	4V4MC9EH7GN927767	2016	VOLVO	VNM64T630
Tractor	42916	TRACTOR EFW SLEEPER	4V4MC9EH9GN927768	2016	VOLVO	VNM64T630
Tractor	43016	TRACTOR EFW SLEEPER	4V4MC9EH0GN927769	2016	VOLVO	VNM64T630
Tractor	40116	TRACTOR EFW SLEEPER	4V4MC9EH4GN927743	2016	VOLVO	VNMTRT
Tractor	40216	TRACTOR EFW SLEEPER	4V4MC9EH6GN927744	2016	VOLVO	VNMTRT
Tractor	40316	TRACTOR EFW SLEEPER	4V4MC9EH8GN927745	2016	VOLVO	VNMTRT
Tractor	40416	TRACTOR EFW SLEEPER	4V4MC9EHXGN927746	2016	VOLVO	VNMTRT
Tractor	40516	TRACTOR EFW SLEEPER	4V4MC9EH1GN927747	2016	VOLVO	VNMTRT
Tractor	40615	TRACTOR EFW SLEEPER	4V4MC9EH1FN927715	2015	VOLVO	VNMTRT

Tractor	40616	TRACTOR EFW SLEEPER	4V4MC9EH3GN927748	2016	VOLVO	VNMTRT
Tractor	40715	TRACTOR EFW SLEEPER	4V4MC9EH3FN927716	2015	VOLVO	VNMTRT
Tractor	40716	TRACTOR EFW SLEEPER	4V4MC9EH5GN927749	2016	VOLVO	VNMTRT
Tractor	40815	TRACTOR EFW SLEEPER	4V4MC9EH5FN927717	2015	VOLVO	VNMTRT
Tractor	40816	TRACTOR EFW SLEEPER	4V4MC9EH1GN927750	2016	VOLVO	VNMTRT
Tractor	40915	TRACTOR EFW SLEEPER	4V4MC9EH7FN927718	2015	VOLVO	VNMTRT
Tractor	40916	TRACTOR EFW SLEEPER	4V4MC9EH3GN927751	2016	VOLVO	VNMTRT
Tractor	41015	TRACTOR EFW SLEEPER	4V4MC9EH9FN927719	2015	VOLVO	VNMTRT
Tractor	41016	TRACTOR EFW SLEEPER	4V4MC9EH5GN927752	2016	VOLVO	VNMTRT
Tractor	41115	TRACTOR EFW SLEEPER	4V4MC9EH5FN927720	2015	VOLVO	VNMTRT
Tractor	41215	TRACTOR EFW SLEEPER	4V4MC9EH7FN927721	2015	VOLVO	VNMTRT
Tractor	41315	TRACTOR EFW SLEEPER	4V4MC9EH9FN927722	2015	VOLVO	VNMTRT
Tractor	41415	TRACTOR EFW SLEEPER	4V4MC9EH0FN927723	2015	VOLVO	VNMTRT
Tractor	41515	TRACTOR EFW SLEEPER	4V4MC9EH2FN927724	2015	VOLVO	VNMTRT
Tractor	41615	TRACTOR EFW SLEEPER	4V4MC9EH4FN927725	2015	VOLVO	VNMTRT
Tractor	41715	TRACTOR EFW SLEEPER	4V4MC9EH6FN927726	2015	VOLVO	VNMTRT
Tractor	41815	TRACTOR EFW SLEEPER	4V4MC9EH8FN927727	2015	VOLVO	VNMTRT
Tractor	41915	TRACTOR EFW SLEEPER	4V4MC9EHXFN927728	2015	VOLVO	VNMTRT
Tractor	42015	TRACTOR EFW SLEEPER	4V4MC9EH1FN927729	2015	VOLVO	VNMTRT
Tractor	42617	EFW SLEEPER	1FUJGHDV0HLHL2171	2017	FRGHT	CASCADIA
Tractor	42717	EFW SLEEPER	1FUJGHDV2HLHL2172	2017	FRGHT	CASCADIA
Tractor	42817	EFW SLEEPER	1FUJGHDV4HLHL2173	2017	FRGHT	CASCADIA
Tractor	42917	EFW SLEEPER	1FUJGHDV6HLHL2174	2017	FRGHT	CASCADIA
Tractor	43017	EFW SLEEPER	1FUJGHDV8HLHL2175	2017	FRGHT	CASCADIA
Tractor	43116	TRACTOR EFW SLEEPER	4V4MC9EH7GN927770	2016	VOLVO	VNM64T630

Tractor	43216	TRACTOR EFW SLEEPER	4V4MC9EH9GN927771	2016	VOLVO	VNM64T630
Tractor	43316	TRACTOR EFW SLEEPER	4V4MC9EH0GN927772	2016	VOLVO	VNM64T630
Tractor	43416	TRACTOR EFW SLEEPER	4V4MC9EH2GN927773	2016	VOLVO	VNM64T630
Tractor	43516	TRACTOR EFW SLEEPER	4V4MC9EH4GN927774	2016	VOLVO	VNM64T630
Tractor	43616	TRACTOR EFW SLEEPER	4V4MC9EH6GN927775	2016	VOLVO	VNM64T630
Tractor	43716	TRACTOR EFW SLEEPER	4V4MC9EH8GN927776	2016	VOLVO	VNM64T630
Tractor	43816	TRACTOR EFW SLEEPER	4V4MC9EHXGN927777	2016	VOLVO	VNM64T630
Tractor	44216	TRACTOR EFW SLEEPER	1FUJGLBGXGLHP2599	2016	FRGHT	CASCADIA
Tractor	44416	EFW SLEEPER	1FUJGLBG2GLHP2595	2016	FRGHT	CASCADIA
Tractor	44716	EFW SLEEPER	1FUJGLBG6GLHP2597	2016	FRGHT	CASCADIA
Tractor	44816	TRACTOR EFW SLEEPER	1FUJGLBG2GLHP2600	2016	FRGHT	CASCADIA
Tractor	45316	TRACTOR EFW SLEEPER	1FUJGLBG4GLHP2601	2016	FRGHT	CASCADIA
Tractor	45416	EFW SLEEPER	1FUJGLBG8GLHP2598	2016	FRGHT	CASCADIA
Tractor	45516	EFW SLEEPER	1FUJGLBG4GLHP2596	2016	FRGHT	CASCADIA
Flatbed	F81810	TRAILER FLATBED	1GRDM9623JH123061	2018	GREAT DANE	FLATBED
Flatbed	F81811	TRAILER FLATBED	1GRDM9625JH123062	2018	GREAT DANE	FLATBED
Flatbed	F81812	TRAILER FLATBED	1GRDM9627JH123063	2018	GREAT DANE	FLATBED
Flatbed	F81813	TRAILER FLATBED	1GRDM9629JH123064	2018	GREAT DANE	FLATBED
Flatbed	F81814	TRAILER FLATBED	1GRDM9620JH123065	2018	GREAT DANE	FLATBED
Flatbed	F81815	TRAILER FLATBED	1GRDM9622JH123066	2018	GREAT DANE	FLATBED
Flatbed	F81816	TRAILER FLATBED	1GRDM9624JH123067	2018	GREAT DANE	FLATBED
Flatbed	F81817	TRAILER FLATBED	1GRDM9626JH123068	2018	GREAT DANE	FLATBED
Flatbed	F81818	TRAILER FLATBED	1GRDM9628JH123069	2018	GREAT DANE	FLATBED
Flatbed	F81819	TRAILER FLATBED	1GRDM9624JH123070	2018	GREAT DANE	FLATBED
Flatbed	F81820	TRAILER FLATBED	1GRDM9626JH123071	2018	GREAT DANE	FLATBED

Flatbed	F81821	TRAILER FLATBED	1GRDM9628JH123072	2018	GREAT DANE	FLATBED
Flatbed	F81822	TRAILER FLATBED	1GRDM962XJH123073	2018	GREAT DANE	FLATBED
Flatbed	F81823	TRAILER FLATBED	1GRDM9621JH123074	2018	GREAT DANE	FLATBED
Flatbed	F81824	TRAILER FLATBED	1GRDM9623JH123075	2018	GREAT DANE	FLATBED
Flatbed	F81825	TRAILER FLATBED	1GRDM9625JH123076	2018	GREAT DANE	FLATBED
Tractor	42115	TRACTOR EFW SLEEPER	1FUJGHDV5FLGR2568	2015	FRGHT	CASCADIA
Tractor	42215	TRACTOR EFW SLEEPER	1FUJGHDV7FLGR2569	2015	FRGHT	CASCADIA
Tractor	42315	EFW SLEEPER	1FUJGLD6XFLGT3737	2015	FRGHT	CASCADIA
Tractor	42415	EFW SLEEPER	1FUJGLD61FLGT3738	2015	FRGHT	CASCADIA
Tractor	43117	EFW SLEEPER	1FUJGHDVXHLHL2176	2017	FRGHT	CASCADIA
Tractor	43317	EFW SLEEPER	1FUJGHDV3HLHL2178	2017	FRGHT	CASCADIA
Tractor	43417	EFW SLEEPER	1FUJGHDV5HLHL2179	2017	FRGHT	CASCADIA
Tractor	43517	EFW SLEEPER	1FUJGHDV1HLHL2180	2017	FRGHT	CASCADIA
Tractor	43617	EFW SLEEPER	1FUJGHDV3HLHL2181	2017	FRGHT	CASCADIA
Tractor	43717	EFW SLEEPER	1FUJGHDV5HLHL2182	2017	FRGHT	CASCADIA
Tractor	43817	EFW SLEEPER	1FUJGHDV7HLHL2183	2017	FRGHT	CASCADIA
Tractor	43917	EFW SLEEPER	1FUJGHDV9HLHL2184	2017	FRGHT	CASCADIA
Tractor	44017	EFW SLEEPER	1FUJGHDV0HLHL2185	2017	FRGHT	CASCADIA
Flatbed*	F81501	TRAILER/FLATBED	1GRDM9620FH724483	2015	GREAT DANE	FLATBED
Flatbed*	F81502	TRAILER/FLATBED	1GRDM9622FH724484	2015	GREAT DANE	FLATBED
Flatbed*	F81503	TRAILER/FLATBED	1GRDM9624FH724485	2015	GREAT DANE	FLATBED
Flatbed*	F81504	TRAILER FLATBED	1GRDM9626FH724486	2015	GREAT DANE	FLATBED
Flatbed*	F81505	TRAILER/FLATBED	1GRDM9628FH724487	2015	GREAT DANE	FLATBED
Flatbed*	F81506	TRAILER/FLATBED	1GRDM962XFH724488	2015	GREAT DANE	FLATBED
Flatbed*	F81507	TRAILER/FLATBED	1GRDM9621FH724489	2015	GREAT DANE	FLATBED
Flatbed*	F81508	TRAILER/FLATBED	1GRDM9628FH724490	2015	GREAT DANE	FLATBED
Flatbed*	F81509	TRAILER/FLATBED	1GRDM962XFH724491	2015	GREAT DANE	FLATBED
Flatbed*	F81510	TRAILER/FLATBED	1GRDM9621FH724492	2015	GREAT DANE	FLATBED

Flatbed*	F81511	TRAILER/FLATBED	1GRDM9623FH724493	2015	GREAT DANE	FLATBED
Flatbed*	F81512	TRAILER/FLATBED	1GRDM9625FH724494	2015	GREAT DANE	FLATBED
Flatbed*	F81513	TRAILER/FLATBED	1GRDM9627FH724495	2015	GREAT DANE	FLATBED
Flatbed*	F81514	TRAILER/FLATBED	1GRDM9629FH724496	2015	GREAT DANE	FLATBED
Flatbed*	F81515	TRAILER/FLATBED	1GRDM9620FH724497	2015	GREAT DANE	FLATBED
Flatbed*	F81516	TRAILER/FLATBED	1GRDM9622FH724498	2015	GREAT DANE	FLATBED
Tractor	EFWT01	EFW TRAINER TRUCK	4V4NC9THX4N352633	2004	VOLVO	VNL
Tractor	EFWT02	EFW TRAINING UNIT	4V4MC9GH06N424092	2006	VOLVO	VNM64T
Tractor	EFWT03	EFW TRAINING UNIT	4V4MC9GH96N424074	2006	VOLVO	VNM64T
Tractor	EFWT05	EFW TRAINING	4V4NC9TH97N428542	2007	VOLVO	JEVIC



**Exhibit A**

**Allocation Schedule Methodology**

The Tax Purchase Price shall be allocated among the Acquired Assets in accordance with the principles set forth below. For purposes hereof, the class references are in accordance with Section 1060 of the Internal Revenue Code and Treasury Regulation Sections 1.1060-1 and 1.338-6. The listing of a class of assets in the table below does not mean that such class of assets is applicable to the transaction.

<b>Asset Class</b>	<b>Allocation of Tax Purchase Price</b>
Class I Assets (cash, demand deposits, etc.)	Actual face amount of Class I assets on the Closing Date.
Class II Assets (marketable stock, government securities, etc.)	Fair market value of Class II assets on Closing Date.
Class III Assets (accounts receivables, mortgages, etc.)	Actual face amount of Class III assets, after reduction for the reserve for bad debts, on the Closing Date.
Class IV Assets (inventory, etc.)	Fair market value of Class IV assets on the Closing Date.
Class V Assets (assets other than Class I, II, III, IV, VI, or VII assets)	Fair market value of Class V assets on the Closing Date.
Class VI Assets (§197 intangibles other than goodwill and going concern value)	Agreed upon value for Class VI assets on the Closing Date.
Class VII Assets (goodwill and going concern value)	Any remaining Tax Purchase Price, after taking into account the allocations to assets in Classes I through VI above.



May 14, 2019

***BY FEDERAL EXPRESS AND E-MAIL***

Phoenix Management Services  
110 Commons Court  
Chadds Ford, PA 19317  
Attn: Vincent J. Colistra

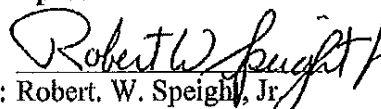
**Re: Schedule of Assigned Contracts**

Mr. Colistra:

Reference is made to that certain Asset Purchase Agreement (the "Purchase Agreement"), dated April 17, 2019, by and among New England Motor Freight, Inc., a New Jersey corporation, Eastern Freight Ways, Inc., a New Jersey corporation ("Eastern"), Carrier Industries, Inc., a New Jersey corporation ("Carrier" and, together with Eastern, "Sellers"), and Estes Express Lines, a Virginia corporation ("Purchaser"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

Pursuant to Section 2.1(b)(vi) of the Purchase Agreement, a schedule identifying the contracts of each Seller that Purchaser has designated as Assigned Contracts is attached hereto as Exhibit A.

Sincerely Yours,  
Estes Express Lines

By:   
Name: Robert W. Speight, Jr.  
Title: Corporate VP – Estes Level 2



cc: Gibbons P.C. (via Federal Express and E-mail)  
One Gateway Center  
Newark, New Jersey 07102  
Attn: Lawrence A. Goldman, Esq.

McGuireWoods LLP (via E-mail)  
Gateway Plaza  
800 East Canal St.  
Richmond, VA 23219  
Attn: Bryce D. Jewett III

**Exhibit A**

**Schedule of Assigned Contracts**

COUNTERPARTY NAME AND ADDRESS	DESCRIPTION OF CONTRACT	DEBTOR ENTITY NAME
A&A Ground Maintenance and Landscaping  127 Ellenel Blvd. Spotswood, NJ 08884	Ground Maintenance & Landscaping Contract dated 3/1/2019	Eastern Freight Ways, Inc.
AMSCAN Holdings Inc.  80 Grassland Road Elmsford, NY 10523	Contract	Carrier Industries, Inc.
Boise Cascade LLC  111 W. Jefferson Street Ste 300, PO Box 50 Boise, ID 83728	Irregular Route Motor Carrier Transportation Contract Short Form dated 4/29/2011	Eastern Freight Ways, Inc.
Carlisle-Syntec  1285 Ritner Hwy Carlisle, PA 17013	Rate Matrix dated 6/22/2011	Eastern Freight Ways, Inc.
CertainTeed Gypsum  PO Box 255 Aurora, OH 44202	Contract	Eastern Freight Ways, Inc.
Certified Protection Systems, Inc.  28 Northfield Ave PO Box 6374 Edison, NJ 08818	Alarm Service Agreement dated 5/28/2003	Eastern Freight Ways, Inc.
CleanNet of New Jersey  20 Commerce Drive, Suite 126 Cranford, NJ 07016	Cleaning Service Agreement dated 10/28/2016	Eastern Freight Ways, Inc.
Georgia-Pacific, LLC  133 Peachtree Street 15 <sup>th</sup> Floor NE Atlanta, GA 30303	Contract Carriage Agreement dated 4/20/2011	Eastern Freight Ways, Inc.

GMC Hardwood, Inc. 93 West Street Medfield, MA 02052	Contract Carrier/Shipper Agreement dated 4/18/2017	Eastern Freight Ways, Inc.
HH Brown Shoe Co. Inc. 124 W. Putnam Avenue Greenwich, CT 06830	Rate Quote dated 2/14/19	Eastern Freight Ways, Inc.
Home Depot U.S.A, Inc. 2455 Paces Ferry Road NW Atlanta, GA 30339	Schedules on Pricing Terms, Operating Assumptions and Operating Requirements dated 9/17/2018	Carrier Industries, Inc.
Infra-Metal Corp. 1561 Pine Street NW Atlanta, GA 30318	Rate Matrix dated 5/8/2017	Eastern Freight Ways, Inc.
Nestle Waters North America 900 Long Ridge Road Stamford, CT 06902	Shipper-Carrier Agreement dated 10/3/2014	Eastern Freight Ways, Inc.
Nucor Corporation 1915 Rexford Road Charlotte, NC 28211	Master Transportation Agreement dated 7/24/2017	Eastern Freight Ways, Inc.
Pitney Bowes PO Box 317887 Pittsburgh, PA 15250-7887	Contract dated 11/28/2016	Eastern Freight Ways, Inc.
Saint-Gobain Corporation 750 East Swedesford Road PO Box 860 Valley Forge, PA 19482-0101	Freight Brokerage Agreement	Eastern Freight Ways, Inc.
Schneider Logistics, Inc. 3101 S. Packerland Drive Green Bay, WI 54313	Brokerage Addendum to Master Transportation Services Agreement dated May 20, 2011	Eastern Freight Ways, Inc.
Taiga International Sales 2-1155 North Service Rd. W. Oakville, ON L6M 3E3, Canada	Freight Supplier Partnership Agreement dated 11/10/2016	Eastern Freight Ways, Inc.
United Gypsum Company & USG Interiors	Transportation Agreement dated 3/9/2011	Eastern Freight Ways, Inc.

50 West Adams Street Chicago, IL 60661-3676		
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**EXHIBIT B**

**Form of Specimen Letter**

[PHOENIX MANAGEMENT SERVICES, LLC LETTERHEAD]

[ Date ]

New Jersey Motor Vehicle Commission

Re: Release of Certain Liens on Vehicles Owned  
by [New England Motor Freight Company/Eastern Freight Ways, Inc.]

To Whom it May Concern:

Pursuant to authority granted to Phoenix Management Services, LLC ("Phoenix") to release liens from New Jersey certificates of title on behalf of secured lenders holding such liens as more particularly set forth in the Order (A) Authorizing and Approving (1) The Sale of Substantially all of Debtors' Eastern Freight Ways, Inc. and Carrier Industries, Inc.'s Assets and Certain Assets of New England Motor Freight, Inc. Free and Clear of all Liens, Claims, Encumbrances and Other Interests; and (2) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith; and (B) Granting Related Relief entered on May \_\_, 2019 in the United States Bankruptcy Court for the District of New Jersey in case entitled *New England Motor Freight, Inc. et. al.*, Case No. 19-12809, you are hereby notified that [Lender] no longer has a security interest(s) or lien(s) in connection with the \_\_\_\_\_ units shown on Schedule A attached hereto identified by year, make, model and VIN that are owned by [New England Motor Freight, Inc. or Eastern Freight Ways, Inc.], [I-71 North Ave. East, Elizabeth, NJ 07201]. You may contact Phoenix at the above address and telephone number.

PHOENIX MANAGEMENT SERVICES, LLC, on behalf of  
[LENDER],

By \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss

I certify that on \_\_\_\_\_, 2019 \_\_\_\_\_ personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed the attached document as the \_\_\_\_\_ of Phoenix Management Services, LLC; and
- (b) signed and delivered this document as his act and deed, as an authorized representative of Phoenix Management Services, LLC on behalf of [Name of Lender].

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_



## Imaged Certificate of Notice Page 97 of 97

United States Bankruptcy Court  
District of New JerseyIn re:  
New England Motor Freight, Inc.  
DebtorCase No. 19-12809-JKS  
Chapter 11**CERTIFICATE OF NOTICE**

District/off: 0312-2

User: admin  
Form ID: pdf903Page 1 of 1  
Total Noticed: 8

Date Rcvd: May 16, 2019

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 18, 2019.

db +New England Motor Freight, Inc., 1-71 North Ave E, Elizabeth, NJ 07201-2958  
 aty +Brent C. Strickland, Whiteford, Taylor & Preston L.L.P., 7501 Wisconsin Avenue, Suite 700W, Bethesda, MD 20814-6521  
 aty +Gibbons, P.C., One Gateway Center, Newark, NJ 07102-5321  
 aty Howard A. Cohen, Gibbons P.C., 300 Delaware Avenue, Suite 1015, Wilmington, DE 19801-1671  
 aty Jeffrey L. Nagel, Gibbons P.C., One Pennsylvania Plaza, 37th Floor, New York, NY 10119-3701  
 aty +Todd M. Brooks, Whiteford, Taylor & Preston L.L.P., 7 St. Paul Street, Suite 1500, Baltimore, MD 21202-1636  
 aty +WASSERMAN, JURISTA & STOLZ, P.C., 110 Allen Road, Suite 304, Basking Ridge, NJ 07920-4500  
 aty +Whiteford Taylor & Preston, Seven Saint paul St. Ste 1800, Baltimore, MD 21202-1639

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.****Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: May 18, 2019

Signature: /s/Joseph Speetjens

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**CM/ECF NOTICE OF ELECTRONIC FILING**The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 16, 2019 at the address(es) listed below:  
NONE.

TOTAL: 0